

Act of 16 July 2004
Telecommunications Law¹

PART I
General Provisions

Chapter 1
Scope of the Act

Article 1. 1. The Act specifies:

- 1) the principles of performing and monitoring business activity consisting in the provision of telecommunications services, the provision of telecommunications networks or associated facilities, hereinafter referred to as “telecommunications activity”;
- 2) the rights and obligations of telecommunications undertakings;
- 3) the rights and obligations of users and radio equipment users;
- 4) the conditions for undertaking and pursuing business activity which consist of networks and associated facilities provision and telecommunications services provision, including radio and television program broadcasting or distribution networks and services;
- 5) the conditions for regulating telecommunications markets;
- 6) the conditions for providing universal service,
- 7) the conditions for service user protection,
- 8) the conditions for frequency, orbit resource and numbering management,
- 9) the conditions for data processing within telecommunications and of telecommunications confidentiality protection,
- 10) the tasks and obligations in favour of national defences, state security and public order and safety within the scope of telecommunications,
- 11) the requirements that are to be met by equipment, radio equipment and telecommunications terminal equipment,

¹ This act implements within the scope of its regulation the following Directives of European Communities:

- 1) Directive 2002/21/EC of 7 March 2002 on a common regulatory framework for electronic communications networks and services (OJ L 108, 24.4.2002);
- 2) Directive 2002/20/EC of 7 March 2002 on the authorization of electronic communications networks and services (OJ L 108, 24.4.2002);
- 3) Directive 2002/19/EC of 7 March 2002 on access to, and interconnection of, electronic communications networks and services (OJ L 108, 24.4.2002);
- 4) Directive 2002/22/EC of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (OJ L 108, 24.4.2002);
- 5) Directive 2002/58/EC of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002);
- 6) Directive 2002/77/EC of 16 September 2002 on markets competition for electronic communications networks and services (OJ L 249, 17.9.2002);
- 7) Directive 1999/5/EC of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999);
- 8) Directive 89/336/EEC of 3 May 1989 on the approximation of the law of Member States relating to electromagnetic compatibility (OJ L 139, 23.5.1989).

Data relating to the publishing of European Union legal acts included in this Act – commencing on the day of the Republic of Poland's accession to the European Union – refers to the publishing of these acts in the European Union Journal of Law – special edition.

12) the functioning of communications administration, its cooperation with other domestic bodies and European Union institutions within the scope of telecommunications regulations.

2. The purpose of the Act is to create the conditions for:

- 1) the support of equal and effective competition within the scope of telecommunications services provision,
- 2) the development and usage of a modern telecommunications infrastructure,
- 3) the ensuring of order in the management of numbering, frequencies and orbit resources,
- 4) ensuring that users derive maximum benefit in terms of choice, price, and quality of telecommunications services,
- 5) the ensuring of technological neutrality.

3. The provisions of the Act do not infringe upon the provisions of the Competition and Consumer Protection Act of 15 December 2000 (Journal of Law for the year 2003 No. 86, Item 804 and No. 170, Item 1652 and for the year 2004 No. 93, Item 891 and No. 96, Item 959) and the Radio and Television Act (Journal of Law of the year 2001 No. 101, Item 1114 with subsequent amendments²).

Article 2.

The following terms used within this Act will mean:

- 1) Subscriber – an entity who is a party to a written contract for the provision of services concluded with a provider of publicly available telecommunications services;
- 2) Public pay telephone – a telephone available to the general public where the connection is paid automatically, in particular by means of coins, tokens, phone cards or debit/credit cards;
- 3) Apparatus – all electrical and electronic appliances together with installations and systems containing electrical or electronic components;
- 4) Provision of a telecommunications network – the establishment of a telecommunications network in such a way as to enable services provision via such a network, its operation, control or making telecommunications access available;
- 5) Access to a local loop – using a local loop or a local subloop which permits the utilization of the full frequency band of the loop (full access to the local loop) or non-voice frequency band of the loop whereby the operator of the local loop is able to use it to provide telephone services (shared access to the local loop);
- 6) Telecommunications access - use of telecommunications facilities, associate facilities or services provided by another telecommunications undertaking, under defined conditions, for the purpose of providing telecommunications services. This includes, among others:
 - a) the connection of telecommunications equipment, in particular access to the local loop and to facilities and services necessary to provide services over the local loop,
 - b) access to buildings and telecommunications infrastructure;
 - c) access to relevant software systems including operational support systems,
 - d) access to number translation or systems offering equivalent functionality,
 - e) access to telecommunications networks, in particular for roaming,

² The amendments to the uniform text of the aforementioned Act were published in the Journal of Law of the year 2002, No. 25, Item 253 and No. 56, Item 517, for the year 2003 No. 96, Item 874 and for the year 2004 No. 91, Item 874)

- f) access to conditional access systems;
 - g) access to virtual network services;
- 7) Electronic program guide – the technical means or solutions which permit choice of programs used in digital television systems, including additional data describing programs in the digital television signal;
 - 8) Telecommunications infrastructure – telecommunications facilities, excluding telecommunications terminal equipment and including in particular lines, cable system, posts, towers, masts, cables, wires and equipment used to ensure the provision of telecommunications;
 - 9) Instruction – detailed instruction prepared by the telecommunications undertaking with regard to the regulatory accounting run by it, including a description of its adopted enterprise methods for separating assets and liabilities, operational incomes and costs relating to telecommunications access or services on the retail market;
 - 10) Interface – the electric, electronic or optical system, including or excluding software, which permits the interconnection, cooperation and exchange of signals of a given form between equipment connected through this interface according to the relevant technical specification;
 - 11) Application program interface - the software which permits connection, cooperation and information exchange between applications provided by broadcasters or service providers and the facilities of the digital television that enable conveyance of digital signals for the provision of television or radio services;
 - 12) Radio interface - an interface which permits radio connection, cooperation and information exchange between radio equipment;
 - 13) Interoperability of services – the ability of telecommunications networks to effectively cooperate for the purpose of ensuring mutual access for users to services provided within those networks;
 - 14) Cost calculation – calculation by the telecommunications undertaking of the costs relating to the provision of services, separately for each service for which the undertaking shall calculate costs according to the cost calculation description approved for the given financial year by the President of the URTiP;
 - 15) Collocation – the granting of physical space or technical facilities in order to place and connect the equipment necessary for the operator connecting its network to another operator's network or using the access to local loop;
 - 16) Electromagnetic compatibility – the ability of apparatus to function in a satisfactory manner in the given electromagnetic environment without introducing intolerable electromagnetic disturbance into that environment;
 - 17) Communication – any information exchanged or transmitted between specified users by means of publicly available telecommunications services; this does not include information transmitted as part of radio or television transmissions broadcast by a telecommunications network, excluding information relating to a subscriber which is identifiable or the user receiving the information;
 - 18) Customer - any natural person who requests or uses publicly available telecommunications services for purposes outside his or her trade, business or profession;
 - 19) Local loop - the physical circuit connection of the network termination point directly to the access point of the fixed public telephone network, in particular to its main distribution frame or equivalent facility;
 - 20) Local subloop - the physical circuit connection of the network termination point to the indirect access point of the fixed public telephone network, in particular to its concentrator or other indirect access facility to the fixed public telephone network;

- 21) Emergency number – the number specified in the Act or in the national numbering plan for public telephone networks which is made available to services appointed by law to provide assistance;
- 22) Geographic number - a number from the national numbering plan where part of its digit structure contains geographic significance used for directing calls to a fixed location of the network termination point
- 23) Non-geographic number – a number from the national numbering plan which does not contain a digit structure determining geographic significance, in particular mobile public telephone network numbers, freephone numbers and premium rate numbers.
- 24) Immunity to electromagnetic disturbances – the ability of the apparatus to operate according to its purpose without limiting performed functions in the presence of electromagnetic disturbances;
- 25) Network interconnection - the physical and logical linkage of public telecommunications networks used by the same or different undertakings in order to allow the users of services or networks of one undertaking to communicate with users of services or networks of the same or another undertaking, or to access services provided by another telecommunications undertaking; network interconnection is specific-natured access implemented between operators;
- 26) Telephone call – the connection established by means of publicly available telephone services allowing two-way communication in real time;
- 27) Telecommunications undertaking – any undertaking or entity authorized to pursue business activity under separate regulations and which conducts business activity consisting in the provision of telecommunications networks, associate facilities or the provision of telecommunications services, whereby the telecommunications undertaking authorized to provide:
 - a) telecommunications services is referred to as the “service provider”,
 - b) public telecommunications networks or associate facilities is referred to as the “operator”;
- 28) Public telephone network – a public telephone network used to provide publicly available telephone services. This supports spoken communications between network termination points and also other forms of communications, in particular facsimile or data;
- 29) Public telecommunications network – a telecommunications network used mainly for the provision of publicly available telecommunications services;
- 30) Publicly available telephone service – a telecommunications service available to the public for the originating and receiving of national and international calls and for the access to emergency services through a number or numbers in a national or international telephone numbering plan, which in addition may include:
 - a) the provision of service provider operator assistance when using the telecommunications services,
 - b) the provision of directory enquiry services,
 - c) the provision of directories,
 - d) the provision of public pay phones,
 - e) the provision of services under special terms,
 - f) the provision of special facilities for customers with disabilities,
 - g) the provision of non-geographic services.
- 31) Publicly available telecommunications service – a telecommunications service available to the general public;
- 32) Regulatory accounting – particularly in relation to accounting run on the basis of the provisions of the Accounting Act of 29 September 1994 (Journal of Laws, No. 76,

- Item 694 with subsequent amendments³⁾ and accounting run by a telecommunications undertaking in relation to its activity with reference to the provision of telecommunications access or services on the retail market, according to the instruction approved for the given financial year by the President of the Office of Telecommunications and Post Regulation (hereinafter called 'the President of the URTiP');
- 33) Mobile public telephone network – a public telephone network where termination points have no fixed location;
 - 34) Retail market – products and services market for telecommunications services for end-users;
 - 35) Telecommunications network - transmission systems and switching or routing equipment and other resources which enable the emission, reception or transmission of signals by wire, by radio, by optical or by other electromagnetic means irrespective of their type;
 - 36) Radio-communications service – emission, reception or transmission of radio waves for the fulfilment of tasks specified for the given service in international radio-communications regulations;
 - 37) Amateur radio-communications service – a radio-communications service aimed at establishing mutual communications, technical research and individual training performed for non-profit purposes and only for the private needs of authorized persons;
 - 38) Fixed public telephone network – a public telephone network where the network termination points have a fixed location.
 - 39) Conditional access system - any technical measure or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or other form of prior individual authorization;
 - 40) Harmful electromagnetic disturbance – electromagnetic disturbance which:
 - a) endangers the functioning of a radionavigation service or other radio-communications service used permanently or temporarily to protect human life or property, or
 - b) otherwise seriously degrades, obstructs or repeatedly interrupts the performing of a radio-communications service operating in accordance with the provisions of law;
 - 41) Provision of telecommunications services – the performing of services by means of its own network, other operator network or selling on its own behalf and on its own account a telecommunications service performed by another service provider.
 - 42) Telecommunications – the emission, reception or transmission of information, regardless of its type, via wire, radio or optical waves or other electromagnetic means;
 - 43) Telecommunications terminal equipment – telecommunications equipment intended to connect directly or indirectly to the network termination points;
 - 44) Associated facilities – additional functional or service facilities associated with a telecommunications network which enable or support the provision of services via that network or which are associated with a telecommunications service which enables or supports the provision of this service, in particular conditional access systems and electronic program guides;
 - 45) Radio equipment – a telecommunications equipment capable of communication by means of the emission or reception of radio waves;

³⁾ Amendments to the final text of the aforementioned act were published in the Journal of Laws for the year 2003, No. 60, Item 535, No. 124, Item 1152, No. 139, Item 1324, No. 229, Item 2279 and for the year 2004 No. 96, Item 959, No. 145, Item 1535 and No. 146, Item 1546.

- 46) Telecommunications equipment – electrical or electronic equipment designed to ensure telecommunications;
- 47) Value added service – any telecommunications service which requires the processing of location data;
- 48) Telecommunications service – a service which consists mainly of the transmission of signals via a telecommunications network; an electronic mail service does not constitute this service,
- 49) User - a legal entity or natural person using or requesting a publicly available telecommunications service;
- 50) End-user - a user using or requesting a publicly available telecommunications service to satisfy its own needs;
- 51) Electromagnetic disturbance – any electromagnetic phenomena which may degrade the performance of apparatus or adversely influence animate or inanimate matter;
- 52) Network termination point – the physical point at which a subscriber is provided with access to a public telecommunications network; in the case of networks involving directing or routing, the network termination point is identified by means of a specific network address, which may be linked to a subscriber number or name;
- 53) Orbit resources – positions on the geostationary orbit or satellite orbits which are or may be used to place artificial Earth satellites designed for ensuring telecommunications.

Article 3. 1. The provisions of the Telecommunications Law will be applied to the legal relations within the scope of telecommunications unless ratified international agreements binding the Republic of Poland provide otherwise.

2. If the international agreements binding the Republic of Poland, including resolutions of international organizations established by those agreements, provide for equal treatment of a Polish and foreign entity, the Minister competent for communications will ensure the equal treatment of those entities also in the executive regulations to this Act.

3. In order to increase the effectiveness of telecommunications, the Minister competent for communications may, by means of an ordinance, implement specialist international requirements and recommendations, including those relating to telecommunications security and correctness, numbers, frequencies and orbit resources management, established in particular by:

- 1) The International Telecommunications Union (ITU);
- 2) The European Conference of Postal and Telecommunications Administrations (CEPT);
- 3) The European Committee for Electro-technical Standardization (CENELEC);
- 4) The International Electro-technical Commission (IEC);
- 5) The European Telecommunications Standards Institute (ETSI).

4. The requirements and recommendations in Paragraph 3 will be hereinafter called “international regulations”.

Article 4. The provisions of Article 143 will not be applied to telecommunications activities performance and radio equipment used by:

- 1) organizational units of and subordinate to the Minister of National Defence or supervised by him and agencies and organizational units supervised by or subordinate to the Minister competent for internal affairs – for their own needs;
- 2) agencies and organizational units subordinate to the Minister competent for internal affairs – in relation to the telecommunications network used by those agencies and units for the needs of the Chancellery of the President, the Chancellery of Sejm, the Chancellery of the Senate and government administration;
- 3) armed forces units of foreign states and organizational units of other agencies of foreign states which temporarily stay on the territory of the Republic of Poland on the basis of agreements which the Republic of Poland is a party to – for the duration of stay;
- 4) organizational units of the Internal Security Agency and Foreign Intelligence Agency – for their own needs;
- 5) organizational units subordinated to the Minister competent for foreign affairs – for their own needs;
- 6) diplomatic posts, consular offices, foreign special missions and posts of international organizations which exercise the privileges and immunities on the basis of acts, international agreements and practices, and which are seated on the territory of the Republic of Poland – only within the scope relating to the diplomatic activities of these entities;
- 7) organizational units of the Penitentiary Service – for their own needs;
- 8) organizational cells performing intelligence activities relating to taxation which are part of the organizational units of tax control and are supervised or subordinate to the Minister competent for public finance – for their own needs.

Article 5. 1. The Minister of National Defence and the Minister competent for internal affairs, in agreement with the Minister competent for communications may, within the limits of their competence, specify by means of an ordinance the detailed conditions for the performing of telecommunications activities, referred to in Article 4 (1) and (3), and also for the use of radio equipment by subordinates, supervised and submitted agencies and organizational units and units referred to in Article 4 (3), taking into account the scope of tasks performed by those agencies and units.

2. The Prime Minister may determine, by means of an ordinance, the detailed principles for the performing of telecommunications activities as well as for using radio equipment by organizational units of the Internal Security Agency and Foreign Intelligence Agency, taking into account the scope of tasks performed by those units.

3. The Minister competent for public finance, in agreement with the Minister competent for communications, may determine, by means of an ordinance, the conditions for

the performing of telecommunications activities as well as for using radio equipment by organizational cells performing tax intelligence activities which are part of tax control organizational units, taking into account the scope of tasks performed by those cells.

4. The Prime Minister may, by means of an ordinance, determine the detailed principles for the performing of telecommunications activities by agencies and organizational units subordinate to the Minister competent for internal affairs – in relation to the telecommunications network used by those agencies and units for the needs of the Chancellery of the President, the Chancellery of Parliament, the Chancellery of the Senate and government administration, taking into account the scope of tasks performed by those agencies and units.

Article 6. 1. A telecommunications undertaking or an entity which receives frequencies spectrum or orbit resources right or numbering allocation, excluding entities referred to in Article 4, shall submit, on the request of the President of the URTiP, information on the execution of their obligations imposed by the Act or administrative decision from the President of the URTiP.

2. The President of the URTiP may request the submission of the information referred to in Paragraph 1 in the event of this information being necessary to:

- 1) control the observance of obligations relating to:
 - a) the co-financing of the universal service,
 - b) the payment of fees referred to in Part IX of the Act,
 - c) the ensuring of telecommunications access,
 - d) the provision of conditional access systems,
 - e) the provision of services on the retail market,
 - f) the ensuring of a minimal set of leased lines,
 - g) the selection of the services provider;
- 2) control the execution of obligations resulting from the Act in a situation where a previously performed inspection showed that those obligations had been executed and that the President of the URTiP has obtained information that this situation has been changed or in a situation where an officially initiated control procedure is being conducted;
- 3) ensure the proper course of procedures relating to the obtaining of frequencies spectrum right, orbit resources right or numbering allocation;
- 4) publish the comparative breakdowns relating to the quality and prices of the provided telecommunications services;
- 5) maintain statistics and market analyses relating to the ensuring of access and the obligation to provide a universal service.

3. In the request referred to in Paragraph 1, the President of the URTiP shall indicate the purpose for which the requested information will be used and the deadline for submitting this information.

Article 7. 1. A telecommunications undertaking with annual income from performing telecommunications activities in the previous financial year exceeding the amount of PLN 4 million shall submit to the President of the URTiP:

- 1) the annual financial statement up to 30 June;

- 2) information concerning the type and scope of the performed telecommunications activities and the sales volume of telecommunications services up to 31 March.

2. A telecommunications undertaking with annual income from performing telecommunications activities in the previous financial year equal to or less than the amount of PLN 4 million shall submit to the President of the URTiP before 31 March information concerning the type and scope of the performed telecommunications activity and the sales volume of telecommunications services.

3. The Minister competent for communications will determine, by means of an ordinance, the templates used to submit to the President of the URTiP the information referred to in Paragraph 1 (2) together with explanations relating to the manner of their filling, this being motivated by the necessity to provide the President of the URTiP with the information necessary for the proper execution of his obligations.

Article 8. The President of the URTiP will make the information received from the telecommunications undertakings available to the regulatory bodies of other European Union Member States, hereinafter called “Member States” and the European Commission, with the exclusion of cases specified in the Act.

Article 9. 1. A telecommunications undertaking may reserve information, documents or their parts including business secret which are submitted at the request of the President of the URTiP or on the basis of the provisions of the Act.

2. The President of the URTiP may repeal the reservation by means of an administrative decision in the event of deeming this information to be necessary.

3. The reservation is taken into account while publishing the information or documents and ensuring access to public information.

4. In the case of the statutory obligation to submit the information or documents received from undertakings to other national bodies, foreign regulatory bodies or the European Commission, the information and documents are submitted together with the reservation and under the condition of its observance.

Chapter 2

The Performing of Telecommunications Business Activities

Article 10. 1. The telecommunications activities which constitute business activities are the regulated activities and are subject to an entry in the telecommunications undertakings register, hereinafter called “the register”.

2. The President of the URTiP is the body keeping the register.

3. The Chairman of the National Broadcasting Council, hereinafter called “the Chairman of the KRRiT” is the body keeping the register in relation to the provision of conditional access systems, electronic programme guides and the multiplexing of digital signals.

4. An entry in the register is carried out on the basis of a written application submitted by the undertaking or other entity authorized to perform business activities on the basis of separate regulations. Such an application will include the following information:

- 1) the company of the undertaking or the name of other entity authorized to perform business activities on the basis of separate regulations, its seat and address;
- 2) the indication of the legal form of the undertaking or other entity authorized to perform business activities on the basis of separate regulations;
- 3) tax identification number;
- 4) the relevant number in the entrepreneurs register or business activity register or other relevant register;
- 5) the indication of the person authorized to contact on behalf of the undertaking or other entity authorized to perform business activities on the basis of separate regulations with the President of the URTiP, its seat, address and telephone number;
- 6) the name, surname, address and phone number of the person authorized to contact on behalf of the undertaking or other entity authorized to perform business activities on the basis of separate regulations in the case of an emergency related to the telecommunications network operation or telecommunications service provision the application refers to;
- 7) a general description of the telecommunications network, telecommunications service and associate facilities to which the application refers.
- 8) the area where the telecommunications activities are to be performed;
- 9) the anticipated date for the commencement of the telecommunications activities.

5. Together with the application, the undertaking or other entity authorized to perform business activities on the basis of separate regulations will submit the statement of the following content: “Being aware of the penal responsibility for the submission of a false statement resulting from Art. 233 (6) of the Penal Code, I hereby declare that:

- 1) the information included in the application for the entry to the telecommunications undertakings register is true;
- 2) I am aware of and fulfil the conditions for performing the telecommunications activities the application refers to which result from the Telecommunications Law of 16 July 2004.

6. The statement referred to in Paragraph 5 will also include:

- 1) the company of the undertaking or the name of other entity authorized to perform business activities on the basis of separate regulations, its seat and address;
- 2) the indication of the place and date of submitting the statement;
- 3) the signature of a person authorized to represent the undertaking or other entity authorized to perform business activities on the basis of separate regulations with indication of the name and surname and the function.

7. The Chairman of the KRRiT informs the President of the URTiP of the submission of the associate facilities referred to in Paragraph 3.

8. The body to which the application for entry in the register is submitted, is to enter the undertaking or other entity authorised to perform business activities on the basis of separate

regulations in the register within 7 days of the day of receipt of this application, together with the statement referred to in Paragraph 5.

9. If the body to which the application for entry in the register is submitted does not enter in the register within the time limit referred to in Paragraph 8, and 14 days have passed from the day of the receipt of the application, the undertaking or other entity authorized to perform business activities on the basis of separate regulations may commence the performance of telecommunications activities after the prior submission of a notification to the body the application for entry in the register was submitted. This does not apply in a situation where the body to which the application for entry in the register is submitted requests that the undertaking or other entity authorized to perform business activities on the basis of separate regulations complete the application for entry in register within the time limit referred to in Paragraph 8.

10. Article 64 of the Administrative Proceedings Code applies to the application for entry in the register.

11. The President of the URTiP notifies the Chairman of the KRRiT with regard to the entry in the register of an undertaking performing activities in the scope of conditional access systems provision or electronic programme guides provision.

12. The application for entry in the register, the annexes accompanying this application and the entry in the register are not subject to stamp duty.

13. The register includes the following information:

- 1) the consecutive number of the entry, hereinafter called “register number”;
- 2) the date of receipt of the application for entry in the register and the entry date;
- 3) information referred to in Paragraph 4 (1-8);
- 4) other information indicated in the Act.

14. The register may be kept electronically.

15. The Minister competent for communications may specify, by means of an ordinance, the types of telecommunications activities referred to in Paragraph 1 which are exempt from the obligation of entry in the register, having taken into account the character, scope and type of such activities.

Article 11. 1. The President of the URTiP and within the scope determined in Article 10 (3) – the Chairman of the KRRiT, within 7 days of the entry in the register issues ex officio the certificate on the entry in the register, hereinafter called “the certificate”.

2. The certificate should include:

- 1) the register number;
- 2) the information referred to in Article 10 (13) (2) and (3);
- 3) the information on the rights of the telecommunications undertaking which result from the Act.

3. In the event of the information included in the certificate differing from the information included in the register, the information included in the register will be deemed binding.

4. The issuing of the certificate is not subject to stamp duty.

Article 12. 1. In the event of changes to the information referred to in Article 10 (4) (1 to 8), the telecommunications undertaking shall immediately submit a written application to the President of the URTiP, and in the scope determined in Article 10 (3) – to the Chairman of the KRRiT, for an amendment to the entry in the register.

2. The application referred to in Paragraph 1 will contain the register number and tax identification number.

3. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, on the basis of the application referred to in Paragraph 1 amends the entry in the register and issues an up-to-date certificate. The provisions of Article 11 will be applied respectively.

Article 13. The Minister competent for communications will specify, by means of an ordinance, the template for the application for entry, or the amendment of entry, in the telecommunications undertakings register, being motivated by the desire to simplify and facilitate the taking up of telecommunications activities as well as the necessity to provide the President of the URTiP with the information necessary for the appropriate execution of his obligations.

Article 14. The National Broadcasting Council will specify, by means of an ordinance, the template for the application for entry in the register referred to in Article 10 (3), being motivated by the desire to simplify and facilitate the taking up of such activities, and the necessity to provide the registering body with the information necessary for the appropriate execution of its obligations.

Chapter 3 Consultation proceedings

Article 15. 1. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, prior to taking up a decision in cases of:

- 1) market analysis and indication of a telecommunications undertaking with significant market power or the repeal of a decision in this matter,
 - 2) the imposing, withdrawing, maintaining or amending of the regulatory obligations in relation to a telecommunications undertaking with a significant market power or not possessing such power,
 - 3) the decisions concerning the telecommunications access referred to in Articles 28-30,
 - 4) other cases indicated in the Act
- will carry out the consultation proceedings which allow interested parties to express in writing their position in relation to the proposed decision within the specified time limit.

Article 16. 1. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, announces the commencement of the consultation proceedings by specifying the object and the date of the consultation proceedings and making the proposed decision together with the justification available. The President of the URTiP and the Chairman of the KRRiT inform the President of the Office for Competition and Consumer Protection, hereinafter called “the President of the UOKiK” with regard to the commencement of the consultation proceedings. In cases regarding the radio and television broadcasting markets other than specified in Article 10 (3), the President of the URTiP also informs the Chairman of the KRRiT with regard to the commencement of the consultation proceedings.

2. Unless the competent body stipulates a longer period, the consultation proceedings last 30 days, starting from the day of the announcement of the commencement of these proceedings. The results of these proceedings, as well as the non-stipulated positions of participants in the consultation proceedings, will be published on the premises, in the bulletin and on the web site of the body.

Article 17. In exceptional cases which require urgent action due to direct and serious menace to competitiveness or user interest, the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, may without carrying out the consultation proceedings issue a decision in cases referred to in Article 15 for a period not exceeding 6 months. The issuing of other decisions in the same case will be preceded by the consultation proceedings.

Chapter 4 Consolidation proceedings

Article 18. In the cases where the decisions referred to in Article 15 may influence commercial relations among the Member States, the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, simultaneously with the consultation proceedings commences the consolidation proceedings by sending the proposed decisions together with their justification to the European Commission and the regulatory authorities of other Member States.

Article 19. 1. In the case of the European Commission and the regulatory authorities of other Member States expressing their position in relation to the proposed decision within the time limit referred to in Article 16 (2), the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, will immediately take this position into consideration to the broadest possible extent.

2. If, within the scope of significant market power assessment and within the scope of the intention to define a relevant market other than the markets specified in the European Commission recommendation adopted on the basis of Article 15 (1) of Directive 2002/21/EC of 7 March 2002 on a common regulatory framework for electronic communications networks and services (OJ L 108, 24.4.2002), the European Commission ascertains that the proposed decision may hinder the development of the single market or may infringe upon Community law, the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, after the time limit referred to in Article 16 (2) withholds the issuing of the decision for a period of two months. If, during this period, the President of the URTiP, and in

the scope determined in Article 10 (3) – the Chairman of the KRRiT, receives a request from the European Commission to withdraw the proposed decision, he discontinues the proceedings. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, shall take into consideration the European Commission position justifying the request to withdraw the proposed decision in the subject this provision refers to.

3. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, while applying the Act, will take into consideration to the broadest possible extent European Commission guidelines on market analysis and the assessment of significant market power and the European Commission recommendations on the relevant product and service markets within the electronic communications sector according to their current wording, and in the case of departing from their application, will notify the European Commission and justify his position.

Article 20. 1. The provision of Article 17 will be respectively applied to cases subject to the consolidation procedure.

2. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, immediately notifies the European Commission and the regulatory authorities of other Member States with regard to the taking of decision referred to in Article 17.

PART II

Telecommunications market regulation

Chapter 1

Analysis of relevant markets and the imposition and withdrawal of obligations

Article 21. 1. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, carries out the analysis of relevant markets in the scope of telecommunications products and services.

2. The relevant market will be understood to be the relevant market in the meaning of the Competition and Consumer Protection Act of 15 December 2000.

3. The telecommunications undertakings shall provide information and submit documents at the request of the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, within the scope necessary to carry out analysis of the markets referred to in Paragraph 1.

4. The request referred to in Paragraph 3 will include:

- 1) the indication of the scope and the period referred to;
- 2) the indication of the purpose of the request;
- 3) the indication of the time limit for the provision of information and the submission of documents;
- 4) the warning with regard to the penalties referred to in Article 209 (1).

5. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, will on a regular basis, at least once every two years, carry out the analysis of relevant markets specified in the ordinance referred to in Article 22 (1) in order to:

- 1) maintain the obligations referred to in Article 25 (4), unless the telecommunications undertaking classified as having significant market power has lost such power;
- 2) amend the obligations referred to in Article 25 (4), if the telecommunications undertaking classified as having significant market power has not lost such power, but the changes in the relevant market justify the application of new obligations;
- 3) withdraw the obligations referred to in Article 25 (4) if the analysis of the relevant market shows that this market is effectively competitive or that the telecommunications undertaking has lost its significant market power;
- 4) designate the telecommunications undertaking or telecommunications undertakings deemed to possess significant market power and to impose the obligations referred to in Article 25 (4) on them, if the relevant market does not have or has lost the characteristics of an effectively competitive market or that the telecommunications undertaking with the significant market power has changed.

Article 22. 1. The Minister competent for communications will specify, by means of an ordinance, the relevant markets subject to analysis by the President of the URTiP, having taken into account the development level of the national telecommunications product and service market and the European Commission recommendations on the relevant product and service markets within the electronic communications sector which are subject to regulation.

2. The scope of the radio and television broadcasting markets will be determined after obtaining the opinion of the Chairman of the KRRiT.

3. If, within the proposed ordinance, provisions which differ from the content of the European Commission's recommendation referred to in Paragraph 1 are applied, the Minister competent for communications will submit the proposed ordinance to consolidation proceedings.

4. Within such consolidation proceedings, the proposed ordinance will be submitted to the European Commission and the regulatory authorities of other Member States by the agency of the President of the URTiP.

5. The Minister competent for communications will respectively apply Article 19 (2) in the event of the European Commission raising an objection to the proposed ordinance referred to in Paragraph 1.

Article 23. 1. Immediately upon the issuing or amending of the ordinance referred to in Article 22 (1), but not later than 30 days after the ordinance or any of its amendments coming into effect, the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, initiates, by means of an administrative decision, the proceedings aimed at determining whether the relevant market is effectively competitive.

2. The analysis of the relevant markets will ensue the taking into consideration European Commission guidelines on market analysis and the assessment of significant market power.

3. The closing of the proceedings referred to in Paragraph 1 will ensue through a decision in which the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, ascertains whether the analysed market is effectively competitive.

4. The decision referred to in Paragraph 3 will be issued by the President of the URTiP, and in the scope determined in Article 10 (3) – by the Chairman of the KRRiT, in agreement with the President of the UOKiK.

5. The provisions concerning the consolidation proceedings will be applied to the proposed decision referred to in Paragraph 3.

6. In the case of a market classified by means of a European Commission decision as being a trans-national market, the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, carries out an analysis of this market in agreement with the relevant national regulatory authorities of other Member States, having taken into consideration European Commission guidelines on market analysis and an assessment of significant market power and thereby ascertains whether one or more telecommunications undertakings has significant power in a given market or whether this market is effectively competitive.

Article 24. 1. In the event of the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, ascertaining that the relevant market is not effectively competitive, he initiates proceedings aimed at designating the telecommunications undertaking or undertakings deemed to possess significant market power and imposes regulatory obligations provided for in the Act.

2. A telecommunications undertaking with significant market power is a telecommunications undertaking individually holding the economic position equivalent to the dominant position in the meaning of Community law provisions.

3. The criteria applied by the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, while assessing the telecommunications undertaking's significant power in the relevant market include amongst others:

- 1) the undertaking's share in the relevant market;
- 2) the absence of technical and economic justification for building an alternative telecommunications infrastructure;
- 3) the existence of the undertaking's technological superiority;
- 4) the absence of or low countervailing buying power;
- 5) the undertaking's easy or privileged access to capital markets or financial resources;
- 6) the economies of scale;
- 7) the economies of scope;
- 8) the vertical integration of the undertaking;
- 9) the development level of the undertaking's distribution and sales network;
- 10) the absence of potential competition;
- 11) the existence of barriers to further expansion of the undertaking and the relevant market;
- 12) the existence of barriers to the relevant market entry.

4. Two or more telecommunications undertakings have collective significant power if, even in the absence of organizational links or other links between them, they hold - on the relevant market - an economic position equivalent to the dominant position in the meaning of Community law provisions.

5. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, may recognize that two or more telecommunications undertakings have collective significant power on the relevant market if, upon an assessment of the concentration level in this market and its transparency, he ascertains in particular:

- 1) the maturity of the market;
- 2) stagnant or moderate growth on the demand side;
- 3) a low elasticity of demand;
- 4) a homogeneity of products;
- 5) similar cost structures from the undertakings;
- 6) similar market shares;
- 7) a lack of technical innovation, technological maturity;
- 8) the absence of excess capacity in production or service provision;
- 9) high barriers to market entry;
- 10) a lack of countervailing buying power;
- 11) a lack of potential competition;
- 12) various kinds of informal or other links between the undertakings concerned;
- 13) a lack of or reduced scope for price competition;
- 14) the possibility for the use of retaliatory mechanisms.

6. The recognition that a telecommunications undertaking or undertakings possesses significant market power may ensue on the basis of the assessment results of criteria referred to in Paragraph 3 or 5; these criteria do not have to be fulfilled jointly.

7. If a telecommunications undertaking possesses significant market power on the relevant market, it may be deemed as being an undertaking with significant market power on a related market, in the event of the links between the two markets being such as to allow the undertaking's market power to be transferred from the relevant market into the related market, thereby strengthening such an undertaking's power on the related market.

Article 25. 1. The President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, and upon the carrying out of proceedings aimed at designating the telecommunications undertaking or undertakings with significant market power on the relevant market or imposing regulatory obligations determined in the Act, will prepare the proposed decision. The provisions related to the consultation or consolidation proceedings will be respectively applied to the proposed decision.

2. Decisions with regard to the designation of the undertaking or the undertakings with significant market power on the relevant market or the imposition of regulatory obligations specified in the Act will be issued by the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, in agreement with the President of the UOKiK.

3. Decisions with regard to the designation of the undertaking with significant market power in radio or television broadcasting markets, other than the cases referred to in Article 10 (3) or

the imposition of the regulatory obligations specified in the Act will be issued by the President of the URTiP in agreement with the President of the UOKiK and the Chairman of the KRRiT.

4. In cases of the decisions referred to in Paragraph 2 and 3, the President of the URTiP, and in the scope determined in Article 10 (3) – the Chairman of the KRRiT, imposes, maintains, amends or withdraws one or more of the regulatory obligations referred to in Article 34, Articles 36-40, Article 42, Articles 44-47 and Article 72 (3), having regard for the adequacy of the given obligations in relation to the identified problem and the proportionality and purposes specified in Article 1 (2), complying with Article 1 (3).

PART II

Telecommunications market regulation

Chapter 2

Telecommunications access

Article 26. 1. The public telecommunications network operator shall conduct negotiations regarding the conclusion of a telecommunications access agreement upon the motion of another telecommunications operator or the entities referred to in Article 4 (1), (2), (4), (5), (7) and (8) for the purpose of providing publicly available telecommunications services and ensuring the interoperability of the services.

2. The telecommunications undertakings, while negotiating the provisions of the telecommunications access agreement, shall take into consideration the obligations imposed on them.

3. The information obtained in connection to negotiations may only be used in line with its intended purpose and is subject to the obligation of confidentiality, unless the provisions of the Act provide otherwise.

4. Unless the Act provides otherwise, the provisions of this Chapter, referring to the telecommunications undertakings, will be applied to the entities referred to in Article 4 (1), (2), (4), (5), (7) and (8) respectively.

5. A Member State operator applying for telecommunications access is not obliged to enter in the register referred to in Article 10, on condition that it does not perform telecommunications activities on the territory of Poland.

Article 27. 1. The President of the URTiP may, on a written motion by each party of the negotiations for the conclusion of the telecommunications access or ex officio and by means of an ordinance, specify the end date of the negotiations for the conclusion of this agreement, not later than 90 days from the day of submission of the motion for the conclusion of the telecommunications access agreement.

2. In the case of negotiations not being taken up, the party obliged refuses the telecommunications access or the agreement is not concluded within the time limit referred to in Paragraph 1, any of the parties may submit to the President of the URTiP a motion for the issuing of a decision regarding any contentious issues or the determining of conditions for co-operation.

3. The motion referred to in Paragraph 2 will include the project of the telecommunications access agreement, including the positions of the parties in the scope specified by the Act and the marking of the areas in the agreement over which the parties were not able to agree.

4. The parties shall submit to the President of the URTiP, on his request and within 14 days, their positions regarding stated discrepancies and the documents necessary to examine the motion.

Article 28. 1. The President of the URTiP makes his decision regarding the telecommunications access within 90 days of the date of the submission of the motion referred to in Article 27 (2), having taken into consideration the following criteria:

- 1) the interest of the telecommunications network users;
- 2) the obligations imposed on the telecommunications undertakings;
- 3) the promotion of modern telecommunications services;
- 4) the character of the contentious issues arisen and the practical possibility for implementing solutions related to the technical and economic aspects of the telecommunications access, both proposed by the telecommunications undertakings being parties of the negotiations and constituting alternative solutions;
- 5) the ensuring of:
 - a) the integrity of the network and interoperability of the services,
 - b) the non-discriminatory conditions of the telecommunications access,
 - c) the development of a competitive market for telecommunications services;
- 6) the market power of the telecommunications undertakings whose networks are being interconnected;
- 7) the public interest, including the protection of the environment;
- 8) the maintaining of the continuity of the universal service provision.

2. The President of the URTiP makes the decision with regard to ensuring the telecommunications access to the entities referred to in Article 4 (1), (2), (4), (5), (7) and (8) within 60 days of the date of the submission of the motion referred to in Article 27 (2), having taken into consideration the criteria referred to in Paragraph 1 (1-4), (5) (a) (c) and (6-8) and the needs of national defence, state security and public order and safety, as well as the specific character of the tasks performed by these entities.

3. The with regard to the telecommunications access in the scope of network interconnection may include the stipulations referred to in Article 31 (2) and (3).

4. The decision with regard to the telecommunications access will replace the telecommunications access agreement within the scope covered by the decision.

5. In cases in which the interested parties conclude a telecommunications agreement, then the decision regarding the telecommunications access will expire by the virtue of law in the part covered by the decision.

6. The decision regarding the telecommunications access may be changed by the President of the URTiP on the motion by any party concerned or ex officio, in cases justified by the need to protect the interests of the end-users, the effective competition or the interoperability of the services.

7. Cases of ensuring claims which ensue from property rights and refer to no or inadequate realization of the obligations which result from the decision regarding the telecommunications access are subject to judicial proceedings.

8. The President of the URTiP issues the decision regarding the telecommunications access which includes all the findings necessary to ensure telecommunications access in the event of one of the parties being a telecommunications undertaking which has been imposed with the obligation on the basis of Article 34 and Article 35.

Article 29. The President of the URTiP may ex officio, by means of an administrative decision, amend the content of the telecommunications access agreement or oblige the parties of the agreement to amend it in cases justified by the need to protect the interests of end-users and the effective competitiveness or interoperability of the services.

Article 30. The provisions of Articles 26-28 and Article 30 will apply to the amendments to the telecommunications access agreements.

Article 31. 1. The conditions of the telecommunications access and cooperation related thereto will be determined by the telecommunications undertakings in the telecommunications access agreement concluded in writing, on penalty of invalidity.

2. The telecommunications access agreement in the scope relating to the network interconnection, hereinafter called the “network interconnection agreement” will include stipulations regarding, at least:

- 1) the location of the telecommunications network interconnection points;
- 2) the technical conditions of the telecommunications network interconnection;
- 3) the settlements regarding:
 - a) ensuring the telecommunications access and mutual use of the telecommunications networks,
 - b) non or inadequate realization of the mutually provided telecommunications services;
- 4) the methods for meeting the requirements:
 - a) within the scope of the interoperability of services, the integrity of the network, the procedures in the event of emergencies and failures, keeping the telecommunications confidentiality and the protection of data in the network;
 - b) regarding electromagnetic compatibility;
- 5) the procedures of settling disputes;
- 6) the proceedings in the event of:
 - a) amendments to the agreement’s content,
 - b) testing the interoperability of services in the interconnected telecommunications networks, especially in relation to examining the quality of telecommunications services,
 - c) reconstruction of the interconnected telecommunications networks,
 - d) changes to the offered telecommunications services,
 - e) changes to numbering;

- 7) the conditions of the agreement termination, related in particular to maintaining the continuity of the universal service provision, if it is provided in interconnected networks, the protection of user interests, as well as the needs of national defences, state security and public order and safety;
- 8) the types of mutually provided telecommunications services.

3. The network interconnection agreement may also include, depending on the type of interconnected networks, relevant stipulations regarding:

- 1) ensuring the continuity of the telecommunications services provision in the event of the agreement termination;
- 2) the collocation conditions for the needs of the interconnection of networks;
- 3) ensuring the quality of the telecommunications services provided;
- 4) effective utilization of the frequency or orbit resources;
- 5) co-utilization of the numbering resources, including those aimed at:
 - a) equal access to the services consisting of granting information with regard to subscriber numbers, to emergency numbers or other numberings agreed on an international scale, with the exception of the requirements of entities referred to in Article 4 (1), (2), (4), (5), (7) and (8),
 - b) number portability;
- 6) additional services, including auxiliary and advanced services related to the mutual provision of the telecommunications services, including:
 - a) operator-consultant assistance,
 - b) national and international telephone number information,
 - c) the presenting of the identification of the calling line and the called line,
 - d) phone call routing,
 - e) phone calls realized by means of phone cards,
 - f) realization of free phone calls and premium rate calls,
 - g) billing of performed telecommunications services, invoicing or vindication.

Article 32. The Minister competent for communications will specify, by means of an ordinance, the detailed requirements related to the interconnection of telecommunications networks within the scope regarding:

- 1) the performing of obligations related to the interconnection of telecommunications networks and regarding the fulfilment of requirements in relation to the interoperability of services, network integrity, procedures in the event of emergencies and failures, providing the entities referred to in Article 4 (1), (2), (4), (5), (7) and (8) with the telecommunications access to public telecommunications network and preserving the telecommunications confidentiality and the protection of data in the network,
- 2) settlements resulting from mutual use of telecommunications network,

— for the purpose of ensuring effective competition in the telecommunications market and the protection of end-users.

Article 33. 1. The telecommunications undertaking obliged under Article 34 of Article 45 and the entity referred to in 4 (1), (2), (4), (5), (7) and (8), being a party to the telecommunications

access agreement, submits the text of this agreement to the President of the URTiP within 14 days of the date the agreement is signed.

2. With the exception of Paragraph 3, the telecommunications access agreements referred to in Paragraph 1 are open to access. The President of the URTiP makes them available to interested entities upon their motion.

3. The President of the URTiP, on the motion of one of the parties of the agreement, may agree to exclude some stipulations in the agreement from the openness principle. Such exclusion may not include settlements resulting from the telecommunications access.

Article 34. 1. The President of the URTiP, according to the stipulations referred to in Article 25 (4), may, by means of an administrative decision, impose on an operator with significant market power the obligation to take into consideration justified motions by telecommunications undertakings for their provision with telecommunications access, including the utilization of network elements and associate facilities, in particular taking into account the competitiveness level of the retail market and end-users interest.

2. The obligation referred to in Paragraph 1 may in particular consist of:

- 1) ensuring the possibility of managing the end-user service by an authorised telecommunications undertaking and to make decisions concerning the provision of services for its benefit;
- 2) providing specified telecommunications network elements, including lines, links or local loops; the obligation to make local loops may relate to a loop or a subloop, in the event of full access or shared access, together with collocation and access to cable links and relevant information systems;
- 3) offering services on wholesale terms for the purpose of their further sale by another undertaking;
- 4) granting access to interfaces, protocols or other key technologies necessary for the interoperability of the services, including virtual networks;
- 5) providing telecommunications infrastructure, collocation and other forms of shared use of buildings;
- 6) providing the network functions necessary to ensure the full interoperability of services, including the provision of services in intelligent networks;
- 7) providing roaming services for mobile networks;
- 8) providing systems which support operational activity and other software systems necessary for effective competitiveness, including tariff systems, invoice issuance systems and collection systems for receivables;
- 9) providing associate facilities in relation to radio and television broadcasting;
- 10) providing network or telecommunications equipment interconnection and facilities related to them;
- 11) conducting negotiations in good-will with regard to telecommunications access and providing formerly-established telecommunications access to specified telecommunications networks, equipment or associate facilities;
- 12) providing telecommunications services on preferential terms according to Article 176 (2) (6) and (7), Article 177 (2) and Article 178 (1) (1).

3. The motion of a telecommunications undertaking for granting telecommunications access to it will be deemed justified on condition that it takes into account the scope of the obligation

determined in the decision referred to in Paragraph 1 and the conditions referred to in Article 35 (1).

Article 35. 1. The President of the URTiP may specify, by means of the decision referred to in Article 34 (1) within the scope necessary to ensure the correct functioning of the telecommunications network, the technical or exploitation conditions which are to be met by the telecommunications undertaking providing telecommunications access or the telecommunications undertakings using such access.

2. While determining the scope of the telecommunications access obligation, the President of the URTiP will, in particular, take into consideration the following:

- 1) the technical and economic justification for the construction of a competitive telecommunications infrastructure, having taken into account the market availability of the telecommunications equipment, the character and type of the applied network interconnection and the telecommunications access;
- 2) the possibility of ensuring the proposed telecommunications access, taking into account the possessed network capacity;
- 3) preliminary investments made by the owner of the equipment or associate facilities, having taken into account the investment risk;
- 4) the necessity to ensure long term competitiveness;
- 5) the relevant intellectual property rights;
- 6) the provision of services over the entire European continent.

Article 36. The President of the URTiP may, according to the premises referred to in Article 25 (4) and by means of an administrative decision, impose on an operator with significant market power the obligation to treat the telecommunications undertakings equally in relation to the telecommunications access, in particular through offering equal conditions in comparable circumstances, and offering services and making information available on conditions not different from those applied within its own undertaking or in relation to subordinate entities.

Article 37. 1. The President of the URTiP may, according to the premises referred to in Article 25 (4) and by means of an administrative decision, impose on an operator with significant market power the obligation to publish or make available the information regarding the issues of providing telecommunications access, related to the accounting data, technical specifications of network and telecommunications equipment, network characteristics, the terms and conditions of service provision and use and its fees.

2. The President of the URTiP specifies, in the decision referred to in Paragraph 1, the specificity of the information and the form, place and dates of publishing or the making available this information.

3. The President of the URTiP may request from the operator with significant market power the submission of documents and the making available of information for the purpose of verifying the obligations referred to in Paragraph 1, in Article 36 and Article 42.

4. The information referred to in Paragraph 3 is published in the Office of Telecommunications and Post Regulation Bulletin, hereinafter called “the URTiP Bulletin”, having taken into account the interest of the operator providing the information.

Article 38. 1. The President of the URTiP may, according to the stipulations referred to in Article 25 (4) and by means of an administrative decision, impose on an operator with significant market power the obligation to run regulatory accounting in a manner which permits the identification of internal transfers related to the operations in relation to the telecommunications access, according to Articles 49-54.

2. The operator runs the regulatory accounting according to the detailed instruction approved by the President of the URTiP.

Article 39. 1. The President of the URTiP may, according to the premises referred to in Article 25 (4) and by means of an administrative decision, impose on the operator with significant market power the obligation to:

- 1) calculate the justified cost for providing the telecommunications access, indicating the methods of cost calculation which should be applied by the operator on the basis of the provisions of the ordinance referred to in Article 51, according to the cost calculation description approved by the President of the URTiP;
- 2) apply fees for the telecommunications access which reflect the recovery by the operator of justified costs.

2. The operator on whom the obligation referred to in Paragraph 1 has been imposed, submits to the President of the URTiP a detailed justification of the amount of fees based on justified costs.

3. For the purpose of verifying the correctness of the justified costs calculated by the operator on whom the obligation referred to in Paragraph 1 has been imposed, the President of the URTiP carries out the audit referred to in Article 53 (5), whereby he may apply other cost calculation methods than those applied by the operator.

4. In the event of the verification of the correctness of the amounts of fees demonstrating discrepancies in relation to the result of calculation submitted by the operator, the President of the URTiP may, by means of an administrative decision, impose the obligation to adequately adjust such fees. The amount of such fees or their maximum or minimum amount will be specified in this decision.

Article 40. 1. The President of the URTiP may, according to the stipulations referred to in Article 25 (4), impose on an operator with significant market power the obligation to fix the fees for telecommunications access on the basis of the costs incurred.

2. The operator on whom the obligation referred to in Paragraph 1 has been imposed, submits to the President of the URTiP his justification of the amount of fees fixed on the basis of the costs incurred.

3. For the purpose of verifying the correctness of the amount of fees applied by the operator referred to in Paragraph 1, the President of URTiP may take into account the amount of fees applied in comparable competitive markets.

4. In the event of the verification of the correctness of the amounts of fees demonstrating discrepancies in relation to the fees applied by the operator, the President of the URTiP may by means of an administrative decision, impose the obligation to adequately adjust such fees. The amount of the fees or their maximum or minimum amount will be specified in this decision, taking into consideration the costs incurred by the operator, the promotion of effectiveness and of balanced competitiveness, the ensuring of maximum benefit for end-users, and having taken into account the amount of fees applied on comparable competitive markets.

Article 41. 1. The fees for mutual use of interconnected networks related to realization of the porting of the number between the networks will take into account the costs incurred.

2. The fees for mutual use of interconnected networks and for the telecommunications access related to the selection of the service provider will take into account the costs incurred.

Article 42. 1. The President of the URTiP may, according to the premises referred to in Article 25 (4), impose on an operator with significant market power on whom the obligation of equal treatment according to Article 36 has been imposed, or together with that obligation, the obligation to prepare and submit within a specified time limit the project of the telecommunications access framework offer, the specificity of detail of which will be determined in the decision.

2. The telecommunications access framework offer will specify the terms and conditions for co-operation with the operator referred to in Paragraph 1 and the fees for services related to the telecommunications access.

3. The telecommunications access framework offer should consist of separate packages, including the relevant telecommunications access elements with regard to the telecommunications activities performed by the telecommunications undertakings.

4. The Minister competent for communications will determine, by means of an ordinance, the scope of the telecommunications access framework offer in relation to the network interconnection, the leased links and local loop unbundling, having taken into consideration the needs of the market, the development of competitiveness and the interoperability of services.

5. The telecommunications access framework offer with regard to the network interconnection should include a clear and complete list of services offered by the operator and the technical and economic conditions of their provision.

6. If the operator, other than the obligation referred to in Paragraph 1, shall provide access to the local loop, the telecommunication access framework offer with regard to access to the local loop realised by means of a pair of metal wires, will include at least:

- 1) the conditions for the provision of access to the local loop;
- 2) the collocation services;
- 3) the conditions of access to the information systems;
- 4) the conditions of services provision.

Article 43. 1. The President of the URTiP approves the framework offer project on condition that it complies with the provisions of law and the needs of the market specified in the decision which imposes the obligation to submit the framework offer or on condition that he amends the submitted framework offer project and approves it, and in the event of the framework offer not being submitted on time, will establish the framework offer by himself.

2. In the event of changes in the demand for services or the market conditions, the President of the URTiP may ex officio, or following a justified motion of a telecommunications undertaking, oblige the operator to prepare the amendment of the whole or the part of the framework offer. In the event of the obliged operator failing to submit the amendment of the framework offer within the specified time limit, the President of the URTiP will independently establish the amendments to the whole or part of the framework offer.

3. The operator's motion for the approval of the framework offer project or amendment will include information and documentation which proves the compliance of the framework offer with legal requirements and the regulatory obligations referred to in Article 25 (4).

4. The President of the URTiP will publish, at the operator's expense, the approved framework offers or their amendments in the URTiP Bulletin.

5. In the event of withdrawing the obligation to apply the framework offer, the agreements concluded on the basis of the framework offer for an indefinite period of time may be terminated or amended not earlier than 90 days from the date of withdrawal of the obligation.

6. The operator on whom the obligation referred to in Article 42 (1) has been imposed shall conclude telecommunications access agreements on conditions not worse for other parties of the agreement than those in the approved offer referred to in Paragraph 1 or determined by the President of the URTiP.

Article 44. In exceptional circumstances, the President of the URTiP may, upon obtaining the approval of the European Commission under Article 18 and Article 19, by means of an administrative decision, impose on operators with significant market power further obligations with regard to the telecommunications access than simply those referred to in Articles 34-40 and Article 42.

Article 45. The President of the URTiP may, having taken into consideration the adequacy of a given obligation to the identified problem, the proportionality and the purposes specified in Article 1 (2), and having taken into account Article 1 (3), by means of an administrative decision, impose on a telecommunications undertaking which controls the access to end-users the regulatory obligations necessary to ensure the end-users of this telecommunications undertaking the communications with the users of another telecommunications undertaking, including the obligation of mutual network interconnection.

Chapter 3 Regulation of services on the retail market

Article 46. 1. If, as a result of the analysis carried out according to Article 23, the President of the URTiP ascertains that:

- 1) a given retail market is not effectively competitive,

- 2) the obligations referred to in Articles 34-40, Article 42, Article 44 and Article 45 do not lead to the achievement of the objectives referred to in Article 189 (2);
- 3) the realization of the subscriber's entitlement referred to in Article 72 (1) does not lead to the achievement of the objective referred to in Article 1 (2) (4) and does not meet the objectives referred to in Article 189 (2)

— he will impose on a telecommunications undertaking with significant market power on a given retail market at least one of the obligations referred to in Paragraph 2.

2. The President of the URTiP, for the purpose of protecting the end-user may, by means of an administrative decision, impose on a telecommunications undertaking with significant market power on a given retail market the following obligations to refrain from:

- 1) fixing inflated prices for services;
- 2) distorting the market entry of other undertakings;
- 3) limiting the competitiveness by fixing prices below the costs of their provision;
- 4) applying preferential treatment to given end-users, excluding those provided by the Act;
- 5) obliging the end-user to use unnecessary services.

3. In the decision referred to in Paragraph 2, the President of the URTiP may in particular:

- 1) determine the maximum prices for services or
- 2) determine the required range of services prices established on the basis of prices applied on comparable markets of Member States or
- 3) impose the obligation to:
 - a) run regulatory accounting according to the instruction approved by the President of the URTiP, or
 - b) calculate the costs of the services according to the cost calculation description approved by the President of the URTiP, or
 - c) fix prices on the basis of the cost of their provision, or
- 4) impose the obligation to submit for approval the price list or the rules of service provision.

4. The President of the URTiP, in the decision to impose the obligation referred to in Paragraph 3 (3) (b), will specify the cost calculation methods for services provided on a given retail market which are to be applied by the telecommunications undertaking on the basis of the provisions of the ordinance referred to in Article 51.

Article 47. 1. The President of the URTiP will, by means of an administrative decision on the telecommunications undertaking with significant market power within the scope of providing a partial or entire minimum set of leased lines, impose the obligation to provide them according to principles of non-discrimination and transparency.

2. The President of the URTiP, in the decision referred to in Paragraph 1, may impose the obligation to:

- 1) run the regulatory accounting according to the instruction approved by the President of the URTiP;

- 2) calculate the cost of services related to the provision of a partial or entire minimum set of leased lines according to the cost calculation description approved by the President of the URTiP and fix their prices on the basis of justified costs connected to their provision.
3. The President of the URTiP will specify, in the decision referred to in Paragraph 2 (3), the cost calculation methods for services provided on a given retail market which are to be applied by the operator on the basis of the provisions of the ordinance referred to in Article 51.
4. The telecommunications undertaking referred to in Paragraph 1 may not refuse to provide the minimum set of leased lines due to the non-compliance of an end-user's terminal equipment with their technical requirements, if this equipment meets the essential requirements referred to in Article 153 (1) and (2).
5. The termination of the telecommunications lines lease service provision requires prior consultation with the interested users.
6. In the event of the operator refusing to conclude the service provision agreement including the provision of the minimum set of leased lines, to terminate the provision of this service or to decrease the number of leased lines in relation to the concluded agreement having used the justification that the user does not observe the lease conditions, the user may submit to the President of the URTiP a motion for the settling of such a dispute. The President of the URTiP will, after carrying out the administrative procedure, make the decision with regard to determining the scope of the obligation to provide the service.
7. The price of the service, including the provision of the minimum set of leased lines, will not depend on the method of using the lines by the user and will relate only to:
 - 1) the leased lines located between the network points the user to which has access;
 - 2) the payables for line connection and periodic payables for its lease;
8. The President of the URTiP, in the decision referred to in Paragraph 1. may oblige the operator to submit for approval the price list or the rules of provision of services including the provision of a partial or entire minimum set of leased lines.
9. The Minister competent for communications will specify, by means of an ordinance, the scope of the service including the provision of the minimum set of leased lines and their technical parameters, being motivated by the desire to create the conditions for the effective provision of the service.

Article 48. 1. The telecommunications undertaking on which the obligation referred to in Article 46 (3) (4) or Article 48 (8) has been imposed, submits to the President of the URTiP the projects for price lists and the rules of service provision together with their justification, at least 30 days prior to the planned date for the introduction of the price list or the rules of service provision or their amendments.

2. The President of the URTiP, by means of an administrative decision made within the 30 days of the date of submission of the price list, rules of the service provision or their amendments, may raise an objection, if the price list or rules of service project is deemed to contradict

the decisions referred to in Article 46 (2) and Article 47 (1) or the provisions of this Act, and may oblige the telecommunications undertaking to submit a price list or rules revised in the part referred to in the objection.

3. The President of the URTiP may request that the obliged telecommunications undertaking submits additional documentation or provides additional information. The deadline referred to in Paragraph 2 will be suspended until that time.

4. A price list or the rules of service provision or their amendments subject to the objection of the President of the URTiP will not come into force.

5. The price list and the rules of service provision or their amendments will be published in the URTiP Bulletin at the expense of the telecommunications undertaking.

Chapter 4 **Regulatory accounting and cost calculation**

Article 49. 1. The purpose of regulatory accounting is to separate and assign the assets, liabilities, incomes and costs of the telecommunications undertaking to the operations related to telecommunications access or operations related to the services on the retail market, so that each type of operation will be performed by an alternative telecommunications undertaking, and also that the revenues and cost related to them are determined separately for each of the services subject to cost calculation.

2. The regulatory accounting will be run in a manner which permits the identification of internal transfer flows between the individual types of operation referred to in Paragraph 1.

Article 50. 1. The regulatory accounting will be run by the telecommunications undertaking on which this obligation has been imposed under Article 38, Article 46 or Article 47.

2. The cost calculation will be run by the telecommunications undertaking on which this obligation has been imposed under Article 39, Article 46, Article 47 or Article 90.

Article 51. The Minister competent for communications, in agreement with the Minister competent for public finance and by means of an ordinance will specify :

- 1) the methods for assigning assets and liabilities, revenues and costs to the operations or services referred to in Article 49 (1),
- 2) the methods of cost calculation in relation to telecommunications access or services on the retail market,
- 3) the methods and time limits for the conducting of valuation up-dates of specific kinds of fixed assets, intangible assets and depreciation deductions from those assets,
- 4) the procedure and time limits for the agreement and approval of the President of the URTiP for the instruction and cost calculation description prepared by the telecommunications undertaking;
- 5) the scope and time limits for the submission to the President of the URTiP of :
 - a) the regulatory accounting statements, assuming the principle that data included in the statements is verifiable in the meaning of the Accounting Act of 29 September 1994,
 - b) the results of cost calculation

- in order to promote effectiveness, balanced competitiveness and to ensure maximum benefit for end-users, and having taken into account the necessity to protect the consumers and competitors from abuse by telecommunications undertakings on which the obligation to run regulatory accounting or cost calculation has been imposed, their market power, the necessity to stimulate the development of the telecommunications market and the necessity to enable the President of the URTiP the control operations in relation to the operations performed by those undertakings.

Article 52. The telecommunications undertaking will store the documentation related to running the regulatory accounting or cost calculation in compliance with the provisions of chapter 8 of the Accounting Act of 29 September 1994.

Article 53. 1. The President of the URTiP will, by means of an administrative decision, specify for the telecommunications undertaking on which he has imposed the obligation to run cost calculation, the ratio of the employed capital cost return that the telecommunications undertaking will apply in the cost calculation, having taken into consideration the documented costs of gaining the capital, the undertaking's position on the capital market, the risk related to employing the capital and the costs of employing the capital on comparable markets.

2. The President of the URTiP will, by means of an administrative decision, approve the instruction and cost calculation description in the manner and within the time limits referred to in Article 51 (4).

3. The President of the URTiP, in the decision referred to in Paragraph 2, may introduce changes to the instruction and cost calculation description projects submitted by the telecommunications undertaking for approval, in the event of such changes not having been introduced by the telecommunications undertaking upon the request of the President of the URTiP in the manner and within the time limits referred to in Article 51 (4).

4. The President of the URTiP may seek the opinion of independent chartered accountants and specialists, in the event of having doubts in relation to the instruction and cost calculation description prepared by the telecommunications undertaking or to the reliability and credibility of data included in the regulatory accounting run or the cost calculation results.

5. The annual regulatory accounting statement and the results of the cost calculation are subject to an audit, at the expense of the telecommunications undertaking, in order to verify compliance with the provisions of law and of the instruction and cost calculation description approved by the President of the URTiP. This is to be carried out within 6 months of the end of the financial year by a chartered accountant independent from the telecommunications undertaking.

6. The President of the URTiP will appoint the chartered accountant to conduct the audit referred to in Paragraph 5.

7. The annual regulatory accounting statement, the results of cost calculation and the opinion of the chartered accountant relating to the audit referred to in Paragraph 5 will be published in the URTiP Bulletin within 8 months of the end of the financial year.

Article 54. 1. The President of the URTiP will, by means of an administrative decision, impose on the telecommunications undertaking obliged by Article 38, Article 46 or Article 47 to run regulatory accounting, the obligation to publish in the URTiP Bulletin the approved instruction, so that the presentation of the methods for the separation and assignment of assets and liabilities, revenues and costs is ensured.

2. The President of the URTiP will, by means of an administrative decision, impose on the telecommunications undertaking obliged by Article 39, Article 46, Article 47 or Article 90 to run cost calculation, the obligation to publish in the URTiP Bulletin the approved cost calculation description so that the presentation of the main cost groups and the methods of assigning them to specific types of services is ensured.

3. The President of the URTiP may, by means of an administrative decision, impose on a telecommunications undertaking with significant market power the obligation to publish in the URTiP Bulletin the prices applied by this telecommunications undertaking.

4. The President of the URTiP, in the decisions referred to in Paragraphs 1-3 and having observed the requirements related to the protection of business secret, specifies the scope of publishing the instruction or cost calculation description or prices applied by the telecommunications undertaking, in order to prevent the abuse, by the telecommunications undertakings obliged on the basis of Paragraphs 1-3, of their significant power in relation to prices, and in particular the unjustified increase or decrease of prices, using price pressure in relation to their competitors through narrowing the bracket between the telecommunications access prices and the retail prices and the application of unjustified price privileges by the telecommunications undertakings with significant market power.

Article 55. 1. The telecommunications undertaking providing public telecommunications networks or providing publicly available telecommunications services shall maintain accounting books, to prepare annual financial statements and submit them to an audit by a chartered accountant and to publish them, regardless of the number of employees, the amount of revenue or the sum of balance sheet assets or the organisational form of this undertaking.

2. The provisions of the Accounting Act of 29 September 1994 will be respectively applied to the maintaining of such accounting books and the auditing and publishing of the financial statements referred to in Paragraph 1.

PART III

End user protection and universal service

Chapter 1

Provision of telecommunications services to end users

Article 56. 1. Telecommunications services are provided on the basis of the telecommunications service provision agreement.

2. With the exception of Paragraph 5, the publicly available telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, is concluded in written form.

3. The agreement referred to in Paragraph 2 should define in particular:
- 1) The name, address and seat of the service provider;
 - 2) The services provided, information with regard to their quality, including the time for the initial connection to the network or the time the telecommunications services provision commences;
 - 3) The scope of maintenance service;
 - 4) Detailed information concerning prices, including price options and the manners in which information about current price list may be reached;
 - 5) The duration of the agreement and the terms of prolongation and termination of the agreement;
 - 6) The amount of contractual penalties in the case of not performing or inadequately performing telecommunications services;
 - 7) The course of the complaint procedure;
 - 8) Information with regard to the possibility of settling a dispute by mediation or submitting it for an arbitration court decision.
4. The agreement on ensuring connection to a public telecommunications network apart from elements referred to in Paragraph 3 should define the number assigned to the subscriber and, in the case of connection to a public fixed telephone network, also the address of network termination point.
5. Provision of Paragraph 2 does not apply to telecommunications services provision agreements concluded through performing actual actions, including agreements with regard to providing telephone services using a public pay phone or by dialling an access number to access the network of the service provider in particular.

Article 57. 1. The service provider is not entitled to make the concluding of a publicly available telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, to be conditional on:

- 1) the concluding an agreement for the provision of other services, or the purchasing of apparatus from a specified provider, by the end user;
- 2) not concluding a publicly available telecommunications services provision agreement, including ensuring connection to the public telecommunications network, with another service provider;
- 3) providing information or data other than specified in Article 161 (2), if the end user is a natural person.

2. The service provider is entitled to make the concluding of a telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, to be conditional on:

- 1) providing documents confirming the ability to meet obligations resulting from the agreement towards the service provider by the end user;
- 2) a positive evaluation of payment credibility of the end user, resulting from data in possession of the service provider or made available to him by the economic information office in the course defined in the Act with regard to making economic information available of 14 February 2003 (Journal of Laws No.50, item 242 and of 2004 No. 68, item 623 and No. 116, item 1203); the service provider is to inform the end user of any such reservations.

3. The service provider may refuse to conclude the network connection agreement or the telecommunications services provision agreement with the end user, or to conclude a publicly available telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, on conditions less favourable to the end user as a result of a negative evaluation of payment credibility based on information made available by the economic information office referred to in Paragraph 2 (2), and to demand securing claims resulting from this agreement in particular.

4. The provisions of Paragraphs 2 and 3 do not apply to agreements referred to in Article 56 (5).

5. The conditions of the publicly available telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, cannot render it impossible or difficult for the subscriber to exercise his right to change service provider providing publicly available telecommunications services.

6. In the event of the conclusion of a telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, associated with an allowance granted to the subscriber, any claim resulting from the unilateral termination of the agreement by the subscriber or the service provider due to the fault of the subscriber prior to the termination date fixed in the agreement should not exceed the equivalence of the allowance granted to the subscriber.

Article 58. 1. In the event of the end user holding a legal title to real property other than ownership, perpetual usufruct or right to co-operative apartment the connection of a single network termination point requires the submission of written consent from either the owner, perpetual user of the real property, or a member of a housing co-operative society.

2. The provision of Paragraph 1 does not apply to an owner, perpetual user of a real property or a member of a housing co-operative society which is a legal entity.

Article 59. 1. The provider of publicly available telecommunications services shall define the scope and conditions of telecommunications services provision in the telecommunications services provision regulations, announced publicly and delivered to the subscriber free of charge with the publicly available telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, as well as on every demand from the subscriber.

2. The provider of publicly available telecommunications services informs the subscriber of every change to the regulations referred to in Paragraph 1, at least one settlement period prior to these changes being introduced. At the same time the subscriber should be informed of the right to renounce the agreement should he not accept the changes, as well as upon the exercising of this right, the provider of the publicly available telecommunications services cannot claim any compensation.

3. The provider of publicly available telecommunications services shall submit the telecommunications services provision regulations to the President of the URTiP upon every demand within the time defined by him, and upon every alteration to the regulations.

Article 60. The service provision regulations of a provider of publicly available telecommunications services should specify in particular:

- 1) the name, address and seat of the service provider;
- 2) the scope of the publicly available telecommunications services provided with an indication of the items comprising the service fee;
- 3) the rules for paying contractual penalties;
- 4) the scope of service;
- 5) the standard agreement terms, including an indication of the minimum period of duration of the agreement, in the event of such time being specified;
- 6) the course of complaint procedure;

Article 61. 1. The provider of publicly available telecommunications services determines the prices for telecommunications services, unless provided otherwise in the Act.

2. The prices of telecommunications services are determined on clear, objective and indiscriminating criteria.

3. The provider of publicly available telecommunications services determines, in the telecommunications services price list, hereinafter called the “price list”, the prices for connection to the network, for services and detailed information concerning applicable price options and discounts.

4. The price list is announced publicly by the provider of publicly available telecommunications services, as well as delivered to the subscriber free of charge with the publicly available telecommunications services provision agreement, including the ensuring of connection to the public telecommunications network, as well as on every demand from the subscriber.

5. If the prices of telecommunications services are raised, the provider of publicly available telecommunications services shall convey this information to the following, at least one settlement period before:

- 1) subscribers, in written form;
- 2) users other than subscribers, by public announcement.

6. In the event described in Paragraph 5 (1) the subscriber should also be informed of the right to renounce the agreement should he not accept the raised prices, and that in the event of enjoying this right, the provider of publicly available telecommunications services cannot claim any compensation, with the exception of Article 57 (6).

7. The provider of publicly available telecommunications services shall submit the price list to the President of the URTiP upon every demand, within the time defined by him, and upon each alteration to the price list.

Article 62. The President of the URTiP, being motivated by the need to increase the availability of information concerning the rules for telecommunications services provision for end users, publishes information concerning the basic rights and obligations of subscribers to publicly available telephone services, including universal service, the standard terms of publicly available telephone services provision agreements, including the ensuring of connection to a public telephone network, as well as the means for the extra-judicial settling

of disputes between the subscribers and a telecommunications undertaking, in the URTiP Bulletin and on the URTiP web site.

Article 63. 1. The provider of publicly available telecommunications services publishes current information with regard to the quality of these services.

2. The President of the URTiP may demand the submission of information referred to in Paragraph 1.

3. The Minister competent for communications may specify, by means of an ordinance, the requirements concerning the quality of particular services as well as the content, form, time and manner of publishing information referred to in Paragraph 1, being motivated by the need to ensure access to comprehensive and clear information to end users.

Article 64. 1. The provider of publicly available telecommunications services encompassing a telecommunications service with additional benefits, hereinafter called the “premium rate service”, shall publicly announce the price for a clearing connection unit, indicating net and gross prices, together with the number of this service.

2. The provider of a premium rate service should ensure that the end user in a fixed public telephone network is informed each time, prior to the charging of payments, of the price of a clearing connection unit and the number of this service.

3. The premium rate service is provided under the agreement concluded as described in Article 56 (5).

Article 65. 1. The provider of a premium rate service submits to the President of the URTiP, information with regard to its name, address, seat, type and the scope of the premium rate service provided, and the number or numbers used to provide this service, at least 7 days before the commencement of this service provision.

2. The President of the URTiP keeps a public register of numbers used by the providers of premium rate services, which includes information referred to in Paragraph 1.

3. The President of the URTiP publishes the register referred to in Paragraph 2 on the URTiP web site.

Article 66. 1. The provider of publicly available telephone services in a fixed network makes available to its subscribers, at a price considering costs, the current directory concerning the Numbering Plan Area in which the subscriber network termination point is based, at least once every 2 years.

2. The provider of publicly available telecommunications services provides to its subscribers with a telephone directory enquiry, including at least its subscribers.

Article 67. 1. The provider of publicly available telephone services makes available this necessary data to other telecommunications undertakings which keep directories or provide a telephone directory enquiry, including a nationwide directory service as well as the service to supply information on numbers encompassing all subscribers of public telephone networks on

the territory of the Republic of Poland, hereinafter called the “nationwide telephone directory enquiry”.

2. The data is made available under an agreement to which the provisions of Articles 27-31 appropriately apply. The agreement particularly determines the form of making the data available.

3. The provisions of Articles 161 and 169 appropriately apply to the telephone directory enquiry and to the preparation of a directory as well as to the related process of making the data available.

Article 68. The provider of publicly available telephone services ensures that end users, including end users using public pay phones, are given the possibility of getting through to a service provider consultant.

Article 69. A subscriber of a public telephone network may demand a change to the assigned number, in the event of proving that using the assigned number is burdensome.

Article 70. In the event of a change in the place of residence, seat or place of activity, the subscriber being a party to an agreement with the service provider which ensures connection to the public telephone network may demand to port the assigned number within the confines of an existing network of the same operator in the area of:

- 1) Numbering Plan Area – in the case of geographic numbers;
- 2) The entire country – in the case of non-geographic numbers;

Article 71. 1. A subscriber being a party to an agreement with a service provider which ensures connection to the public telephone network may demand, when changing operators, to port the assigned number to an existing network of another operator in the area of:

- 1) Numbering Plan Area – in the case of geographic numbers;
- 2) The entire country – in the case of non-geographic numbers;

2. The provision of Paragraph 1 does not apply to porting numbers between fixed and mobile public telephone networks.

3. A single fee defined in the price list may be charged from the subscriber by the previous operator for porting the assigned number. The fee amount should not discourage the subscriber from exercising this right.

Article 72. 1. A subscriber being a party to an agreement with a service provider which ensures connection to a fixed public telephone network of an operator with a significant market power may choose any provider of publicly available telephone services, whose services are available in interconnected networks.

2. In virtue of choosing the provider of publicly available telephone services referred to in Paragraph 1, no claim may be raised against the subscriber.

3. Being motivated by subscriber needs in the scope of choosing the service provider, the President of the URTiP, after performing under Articles 23 and 24 an analysis of the market of services provided in the mobile public telephone network, may, by means of an administrative decision referred to in Article 25, impose on a specified operator with a

significant market power the obligation to realize the right referred to in Paragraph 1 in favour of subscribers connected to its network.

Article 73. The Minister competent for communications specifies, by means of an ordinance, the conditions on which the subscribers may use their rights referred to in Articles 69-72, taking into account the availability of telephone services, the technical potential of public telephone networks and existing numbering resources.

Article 74. 1. The service provider which ensures connection to the public telephone network and the operator of the network to which the subscriber is connected, being a party to an agreement with the service provider which ensures connection to the public telephone network, shall ensure that the subscriber possesses the possibility to exercise his rights referred to in Articles 69-72, and which consist in the creation of adequate technical conditions or the concluding of the agreement referred to in Article 31 or in Article 128, and if such possibilities exist – ensure their application.

2. At the request of a provider or an operator referred to in Paragraph 1, the President of the URTiP may, by means of an administrative decision, suspend for a specified time the exercise or limit the scope of exercising given rights referred to in Articles 69-71, in the event of the technical potential of the requesting party not allowing for the exercising of the right in full or in part, and specify a schedule for the adjustment of the network in order to exercise the obligation referred to in the request.

3. The President of the URTiP may impose the penalty referred to in Article 209 (1) (15) – (1) (17) on the provider and on the operator, referred to in Paragraph 1, if they:

- 1) do not ensure the possibility to exercise subscriber rights, referred to in Paragraph 1;
- 2) do not realize subscriber rights when this realization is possible;
- 3) realize subscriber rights discrepantly with the provisions of the Act or the ordinance referred to in Article 73.

Article 75. A public telephone network operator ensures end users of the possibility for multi-frequency tone dialling (DTMF).

Article 76. A public telephone network operator ensures the transfer of data and signals in order to facilitate the offering of the calling line identification presentation facilities and the multi-frequency tone dialling (DTMF), referred to in Article 75 and Article 171 (1), between Member States operators networks.

Article 77. 1. The Provider of publicly available telecommunications services shall provide its network end-users, including persons using public pay-phones, with connection free of charge to emergency numbers.

2. The Provider of publicly available telecommunications services shall ensure the routing of connections to the emergency numbers of services called upon by law to provide assistance appropriate for a given area.

Article 78. 1. The operator of a public telephone network shall make available, as far as technical possibilities allow, information with regard to the location of the network termination point from which the connection to the “112” emergency number and other emergency numbers originates in real time on each and every request for services called upon by law to provide assistance, allowing for immediate intervention.

2. The provision of Article 74 (2) applies to the obligation referred to in Paragraph 1 accordingly.

Article 79. 1. The operator of a public telephone network provides its network end-users and end users of other Member states with the possibility, where technically and economically possible, to realize a connection to a non-geographic number on the territory of the Republic of Poland, with the exception of occasions in which the dialled subscriber has limited incoming connections from end-users located in particular geographic areas.

2. The President of the URTiP, upon the motion of the operator of a public telephone network, may, by means of an administrative decision and for a specified time, suspend the realization or limit the scope of realization of the obligation referred to in Paragraph 1, in the event of technical or economic reasons which prevent the applicant from realizing this obligation in its entirety or in part, specifying a schedule for applicant network adaptation to the realization of the obligation included in the application.

Article 80. 1. The provider of publicly available telecommunications services delivers to the subscriber, gratuitously with each invoice, with a basic billing that includes information about realized paid connections with the number of clearing units, corresponding to the value of connections made by the subscriber, provided for each type of connection.

2. The provider of publicly available telecommunications services delivers on subscriber demand an itemised billing. A fee specified in the price list may be charged for this list.

3. An itemised billing should include information with regard to the realized paid connection, catering for each connection: the destination number, date and time of the commencement of this connection, connection duration and the fee charged for this connection, indicating gross and net prices.

4. The provider of publicly available telecommunications services delivers an itemised billing beginning with the current settlement period in which the subscriber submits a demand in written form, until the end of the settlement period corresponding to the date agreed with the subscriber to be the date of cessation of delivering this billing.

5. The billing referred to in Paragraph 4 is delivered by the provider of publicly available telecommunications services with the invoice for the settlement period relevant to the billing.

6. The provider of publicly available telecommunications services delivers, on subscriber demand, an itemised billing for settlement periods predating the settlement period for which the subscriber demands this service by no more than 12 months.

7. In the event of such a demand as is described in Paragraph 6, an itemised billing is delivered within 14 days of the day the subscriber submits a demand in written form.

Chapter 2

Provision of universal service

Article 81. 1. The set of telecommunications services which should be available for all end users of fixed public telephone networks in the territory of the Republic of Poland, preserving the required quality and at a reasonable price, is a universal service.

2. The service referred to in Paragraph 1 is provided by the telecommunications undertaking designated under Article 82 or Article 83 to provide a universal service or particular services comprising the universal service, hereinafter call the “designated undertaking”.

3. The collection of telecommunications services referred to in Paragraph 1 includes:

- 1) the connection of a single network termination point in customer main location other than for the integrated services digital network, hereinafter called the “ISDN”;
- 2) maintaining the subscriber line with the network termination point referred to in Subparagraph 1 ready for providing telecommunications services;
- 3) domestic and international telephone connections, including to mobile networks, encompassing also the ensuring of fax transmission and data transmission, including connection to the Internet;
- 4) the provision of information about telephone numbers and making directories available;
- 5) the provision of facilities for disabled persons;
- 6) the provision of telephone services using public pay phones.

4. The subscriber main location referred to in Paragraph 3 (1) will be understood to be the address indicated by the subscriber in the telecommunications services provision agreement. An address may be indicated where the subscriber is permanently registered or/and address of a real property the subscriber has a legal title to, excluding individual recreation buildings, that is buildings meant for periodic family recreation.

5. In the case of:

- 1) public schools,
- 2) non-public schools with the rights of public schools, where the obligatory school attendance or obligatory study is realized,
- 3) teacher training institutes,
- 4) public continuous education centres, practical education centres, youth education centres, youth social therapy centres, school and upbringing centres, special educational centres and psychological-pedagogical clinics,
- 5) public in-service teacher training centres and public pedagogical libraries,
- 6) public libraries,
- 7) higher schools,

- hereinafter called “entitled units”- apart from the universal service the service of network connection is provided in order to ensure the broadband Internet access service, taking Article 100 into account.

6. The Minister competent for communications will specify, by means of an ordinance, the detailed requirements concerning the provision of a universal service as well as the requirements concerning the provision of broadband Internet access service for entitled units, in particular:

- 1) the availability and quality parameters for the universal service as well as the service of connection to the network in order to ensure the broadband Internet access service use by the entitled units,
- 2) the requirements concerning facilities for persons with disabilities, including the types of terminal equipment which should be offered to persons with disabilities by the designated undertaking as well as the requirements concerning the adaptation of public pay phones for use by persons with disabilities,
- 3) the required line data rate for the broadband Internet access service for entitled units
- having considered the development level of the telephone network as well as the increasing availability of telecommunications services in territory of the Republic of Poland.

Article 82. 1. The President of the URTiP announces in a nationwide daily newspaper a competition for a designated undertaking in the area indicated by the President of the URTiP, in which every telecommunications undertaking may participate.

2. The competition is announced within 12 months of the coming into force of the Act and upon each occasion when the designated undertaking ceases to provide universal service under the conditions determined in Article 102 or the decision of the President of the URTiP referred to in Article 85, or if an alternative telecommunications undertaking submits an application for opening competition.

3. The competition announcement includes information concerning the required quality level of the universal service provision as well as other information required under the ordinance issued under Paragraph 5.

4. The President of the URTiP designates, by means of an administrative decision, a telecommunications undertaking to provide the universal service or particular services comprising the universal service, based on the lowest cost provision of publicly available telephone services and upon data with regard to the quality of provision of these services included in the telecommunications undertaking offer, and taking into account its ability to provide the universal service or particular services comprising the universal service.

5. The Minister competent for communications will specify, by means of an ordinance, the required scope of the competition announcement, the scope of the universal service provision offer and the required documentation, as well as the course of the competition proceedings concerning the appointment of the designated undertaking, having considered the need to ensure clarity and objectivity in the proceedings.

Article 83. 1. Should there be no offers for providing the universal service or particular services comprising the universal service, the President of the URTiP appoints, by means of an administrative decision, the provider of publicly available telecommunications services in a public fixed telephone network with the most significant retail market power in the area indicated by the President of the URTiP, to provide the universal service or particular services comprising the universal service that are not yet catered for in this area.

2. If no provider of publicly available telecommunications services in a public fixed telephone network has a significant retail market power in the area referred to in Paragraph 1, the President of the URTiP appoints the provider of publicly available telecommunications services which operates the most fixed telephone subscriber lines in this area.

Article 84. The President of the URTiP prepares a list of designated undertakings and publishes it in the URTiP Bulletin and on the URTiP website, designating the scope of services provided by these undertakings and the area in which they shall provide these services.

Article 85. 1. The President of the URTiP, by means of an administrative decision, will specify in particular:

- 1) the date the provision of the universal service or particular services comprising the universal services will commence,
 - 2) the period the universal service or particular services comprising the universal service will be provided in,
 - 3) the values of availability and quality ratios of the provision of the universal service or particular services comprising the universal service
- which are to be retained by the designated undertaking, being motivated by the development level of telecommunications services in a given area, and in the case of an undertaking designated under Article 82, the provision conditions for services included in the offer.

2. The decision referred to in Paragraph 1 is subject to consulting proceeding regulations.

Article 86. The designated undertaking may not refuse to conclude an agreement to provide the universal service, particular services comprising the universal service, or the service referred to in Article 81 (5), in the event of the end user meeting the conditions resulting from the universal service provision regulations.

Article 87. The agreement for providing the universal service, or the service referred to in Article 81 (5), should be concluded within 30 days of the submission of an application for concluding this agreement and should define the time of service provision commencement in particular.

Article 88. 1. The President of the URTiP, by means of an administrative decision, determines for each of the undertaking appointed to provide a service as part of the universal service which consists of providing a telephone service via public pay phones, the minimal number of public pay phones adapted for use by people with disabilities which are to be installed in the area of operation of a given designated undertaking, with consideration given to the condition of the telephone network in this area and justified inhabitant needs.

2. The President of the URTiP may withdraw from imposing the obligations referred to in Paragraph 1 in part of or in the entire territory of the Republic of Poland, in the event of consultation proceedings with interested entities ascertaining that the number of existing public pay phones or subscriber lines is sufficient to satisfy inhabitant needs.

Article 89. The designated undertaking shall provide access for persons with disabilities to the provided universal service by offering:

- 1) terminal equipment adapted for use by persons with disabilities, in the event of the use of such equipment being necessary for securing access to the universal service;
- 2) facilities which are facilitating to persons with disabilities using the universal service.

Article 90. The designated undertaking determines the price of the universal service, particular services comprising the universal service or the service referred to in Article 81 (5),

based on justified costs for the provision of this service, calculated according to the ordinance issued under Article 51, on condition that the price determined in this manner and by this undertaking is compatible with the conditions referred to in Article 91 (1).

Article 91. 1. The designated undertaking determines the price of the universal service or particular services comprising the universal service and takes into account the economic abilities of end users, or for it to correlate their needs by offering various price options and manners of using these services, with particular consideration to persons with disabilities.

2. The designated undertaking shall submit to the President of the URTiP a project for the universal service price list or its changes in the 30 days prior to its rulings coming into force.

3. The President of the URTiP will perform an analysis of the price list project and in the event of a decision that the universal service prices fail to meet the conditions described in Paragraph 1, he may impose the obligation referred to in Article 46 (2) (1) and (2) (4) and Article 46 (3) (1) and (3) (2).

Article 92. 1. The designated undertaking shall submit to the President of the URTiP the universal service provision price list and regulations within 2 weeks of their rulings coming into force and upon each occasion involving changes to the list.

2. The President of the URTiP publishes the price list and regulations referred to in Paragraph 1 on the URTiP web site.

Article 93. 1. The designated undertaking which provides additional facilities and services in relation to services comprising the universal service or the service referred to in Article 81 (5) determines the conditions for the usage of these facilities and services in a manner not obligating the subscriber to pay for additional facilities or services which are not necessary for the provision of the requested service.

2. The designated undertaking allows payment in instalments for connection of a single network termination point in subscriber main location.

3. The designated undertaking secures the subscribers the possibility to bar outgoing calls to defined types of numbers or services free of charge.

4. The designated undertaking secures the subscribers the possibility to bar outgoing calls above a specified value in the settlement period as well as the ability to use services within the limits of an advance payment or within the limits of a subscriber defined upper limit for invoice amount.

5. The designated undertaking delivers, upon subscriber demand and free of charge, an itemised billing in a manner which prevents direct access by third parties to information included in these services and for the subscriber to be able to verify and control payments resultant from the use of the public fixed telephone network.

Article 94. 1. The designated undertaking publishes in a nationwide daily newspaper and on its web site current information concerning the provision quality of the universal service supplied by it, in the scope of meeting the service availability and quality ratios determined

in the ordinance issued under Article 81 (6), for every 6 months and every year, for the entire area of operation and separately for each Numbering Plan Area in which it operates.

2. The designated undertaking submits the information referred to in Paragraph 1 to the President of the URTiP within 1 month of the end of the periods referred to in Paragraph 1.

3. The Minister competent for communications may specify, by means of an ordinance, additional requirements concerning the quality of the universal service provided to persons with disabilities, being motivated by the need to evaluate telecommunications undertaking operation in the scope of telecommunications service provision for such persons.

4. The President of the URTiP performs the conformity assessment of the appointed undertakings with the determined values of availability and quality ratios.

5. If a designated undertaking does not fulfil its responsibility to provide a universal service at least in accordance to the determined availability and quality ratios, the President of the URTiP undertakes the course of action referred to in Article 201.

Article 95. 1. The undertaking designated under Articles 82 and 83 is entitled to subsidies to the cost of the provided services comprising the universal service, hereinafter called the “subsidy”, in the event of failure to secure profitability.

2. The subsidy is determined by the President of the URTiP in the amount of net provision costs of the service being a part of the universal service. The net provision cost of the universal service concerns only those costs which are not born by the undertaking, should it not be obliged to provide the universal service.

3. The calculation of the net cost referred to in Paragraph 2 should take the following into account:

- 1) costs directly related to universal service provision;
- 2) income due to universal service provision;
- 3) indirect profits related to universal service provision.

4. The Minister competent for communications will specify, by means of an ordinance, the manner of calculating the net costs of the service as a part of the universal service, being motivated by regulations currently in force in the European Union.

Article 96. 1. The designated undertaking may submit an application for the subsidy within 6 months of the end of a calendar year in which, according to this undertaking, a net cost was present.

2. The designated undertaking submits to the President of the URTiP the calculated net cost amount as well as receipts and other documents containing data or information used as a basis for calculating net costs. The President of the URTiP calls an auditor to analyze this documentation.

3. The President of the URTiP, within 60 days of the day the application is submitted, verifies the net costs and, depending on this verification outcome, grants, by means of an administrative decision, a specified subsidy amount, or refuses to grant it.

4. The President of the URTiP refuses to grant the subsidy in the event of concluding that the verified net cost is not a justifiable burden for the designated undertaking.

Article 97. Telecommunications undertakings which have an income from telecommunications activities higher than 4 million PLN in the calendar year the universal service subsidy is due shall participate in financing the subsidy.

Article 98. 1. The President of the URTiP commences proceedings aimed at determining the telecommunications undertakings obliged to finance the subsidy and proportion of their contribution to the subsidy immediately upon determining the subsidy due.

2. The President of the URTiP determines a uniform ratio of percentage participation for all telecommunications undertakings obliged to participate in the financing of the subsidy, taking the amount of subsidy to be financed into account. The proportion of the contribution of a given telecommunications undertaking in financing the subsidy, to be not higher than 1% of its income, is determined proportionally to the height of this undertaking income in a given calendar year resulting from telecommunications activities.

3. The President of the URTiP determines, by means of an administrative decision, the amount of the participation in financing the subsidy for a telecommunications undertaking. The decision is immediately enforceable.

4. The subsidy amount is subject to the administrative execution of dues.

5. In the event of the subsidy amount being acquired from an undertaking as a result of execution, the amount of expenses related to transferring the executed due to the designated undertaking entitled to receive the subsidy, as well as execution costs, are covered by the telecommunications undertaking obliged to participate in financing the subsidy, against which the execution proceeding take place.

Article 99. 1. The amount determined in the decision referred to in Article 98 (3) is payable to an appropriate URTiP account used for money transfers from a telecommunications undertaking obliged to participate in financing the subsidy, to the designated undertaking entitled to receive this subsidy, within 1 month of the day of receiving this decision.

2. Interest accrued on assets in the account referred to in Paragraph 1 is added to the amount of accumulated assets.

3. The President of the URTiP transfers the subsidy to the designated undertaking entitled to receive it immediately upon receiving a transfer of payments to the URTiP account proportionally to these payments.

4. In the event of the determined subsidy amount exceeding the amount of assets accumulated in the URTiP account, the subsidy obligation in a subsequent calendar year is increased by the outstanding amount.

5. The President of the URTiP publishes each year in the URTiP Bulletin and on the URTiP web site a report concerning the final decision results with regard to:

- 1) universal service provision net costs;
- 2) documentation evaluation;

- 3) proportion of telecommunications undertakings obliged to finance a subsidy;
- 4) the amount of the subsidy transferred to the designated undertaking;
- 5) an assessment of the intangible benefits for the designated undertakings resulting from universal service provision.

Article 100. 1. The expenses related to network connection service provided in order to ensure broadband Internet access service to entitled units is financed from the national budget.

2. Assets referred to in Paragraph 1 are transferred:

- 1) in relation to public schools and institutions and libraries referred to in Article 81 (5) (1)-(6) – to local government units as a specific purpose subsidy, under the ordinance referred to in Paragraph 3;
- 2) in relation to public schools and institutions and libraries run by proper ministers, by increasing the expense projections in the budgets of these ministries;
- 3) in relation to higher schools, by increasing the expense projections of the proper ministers supervising higher schools.

3. The Minister competent for information technology will specify, by means of an ordinance, the conditions for the granting as well as the manner of transferring and using subsidies intended for entitled units, having considered the need to secure education in the scope of information society development and education opportunities equality.

Article 101. 1. The designated undertaking may stop or significantly limit universal service provision or alter the conditions of providing this service, in the event of the occurrence of justified circumstances making the meeting of conditions concerning the following impossible:

- 1) preserving continued telecommunications services provision in the case of a telecommunications network failure or in situations of particular threat,
 - 2) preserving network integrity protection,
 - 3) service interoperability,
 - 4) preserving telecommunications secrecy or data protection in the network, meeting electromagnetic compatibility related requirements
- by informing the President of the URTiP with regard to the causes, duration and anticipated time of universal service provision cessation, and limitation or change in the conditions of this service provision.

2. Under the events referred to in Paragraph 1, the designated undertaking network subscribers are entitled to file a complaint to the President of the URTiP, who will examine it within 7 days of the day it is filed.

3. The designated undertaking may:

- 1) limit telecommunications services provision, the services not being part of the universal service first, preserving provision of services not increasing the subscriber debt, including transferring calls to the subscriber or calls free of charge, if the subscriber has outstanding dues for the realization of telecommunications services longer than one settlement period;
- 2) limit or suspend the provision of telecommunications services, if the subscriber repeatedly violates service provision or telecommunications services provision agreement regulations or takes action making the provision or usage of telecommunications services difficult or impossible.

4. The designated undertaking may unilaterally terminate the agreement with the subscriber whom the undertaking has limited or suspended the provision of telecommunications services, after prior ineffective calling on the subscriber to:

- 1) pay dues in a time not shorter than 15 days, should a delay in payment for realized telecommunications services occur;
- 2) remove the causes of suspension or limitation of service provision in cases referred to in Paragraph 3 (2).

5. In the event of a dispute concerning the amount due, disconnection may not take place until the dispute is settled, on the condition of payment of current dues.

Article 102. 1. The designated undertaking which, for reasons independent of its control, cannot continue to provide a universal service, notifies the President of the URTiP with regard to the intent to cease the provision of this service, as well as with regard to actions leading to preserving the continuing provision of this service.

2. The designated undertaking cannot cease to provide a universal service until the provision of this service is taken over by another designated undertaking.

Article 103. 1. The designated undertaking which operates the largest number of subscriber lines in the territory of the Republic of Poland shall provide all public telephone network users, including public pay phone users, with a nationwide directory service and nationwide telephone directory enquiry.

2. The President of the URTiP appoints, by means of an administrative decision, the telecommunications undertaking referred to in Paragraph 1 and defines the detailed conditions for the provision of the nationwide directory and the nationwide telephone directory enquiries, including data concerning the form and scope of providing these services, as well as the detail level of subscriber data included in the directory and telephone directory enquiry.

3. The provisions of Articles 161 and 169 apply to the nationwide telephone directory enquiry as well as to the preparation of the nationwide directory and to the related process of making data available.

4. The nationwide directory and the nationwide directory enquiry should be updated by the telecommunications undertaking at least once a year.

Chapter 3

Liability for non or inadequate realization of telecommunications services

Article 104. 1. The provisions of the Civil code apply to telecommunications undertaking liability for non or inadequate realization of telecommunications services, with the exception of Paragraph 2 and Article 107 (1).

2. The designated undertaking is liable for non or inadequate realization of the universal service in the scope defined by this Act only.

3. The provisions outlined in Paragraph 2 do not apply in the event of non or inadequate realization of the universal service having resulted from intentional guilt, gross negligence of the designated undertaking, or is a consequence of a misdeed.

4. The telecommunications undertaking providing international services is liable for its non or inadequate realization in the scope of and based on rules determined in international agreements to which the Republic of Poland is a party.

Article 105. 1. For each day that the periodically payable universal service is not available, the subscriber is entitled to compensation amounting to 1/15th of the mean monthly payment, the calculation being based on receipts for the previous three settlement periods, but only for a period of not longer than 12 months.

2. The subscriber is not entitled to compensation in the event of the total time in which the universal service is unavailable is shorter than 36 hours in the settlement period.

3. Regardless of compensation, the subscriber is entitled to a return of 1/30th of the monthly subscription payment for each day during which the periodically payable telecommunications service has been unavailable for more than 12 hours.

4. In the event of the designated undertaking not keeping to:

1) the universal service provision agreement conclusion deadline, or

2) the time of commencement of the universal service provision specified in the universal service provision agreement

- for each day beyond the specified time, the end user is entitled to receive from the designated undertaking compensation of 1/30th of the monthly subscription payment charged by this undertaking for the periodically payable universal service provision, as specified in the agreement.

Article 106. 1. The Provider of publicly available telecommunications services shall consider any complaint concerning the telecommunications service.

2. In the event of the complaint concerning a telecommunications service not being considered within 30 days of the day it is filed, it is assumed that the complaint has been acknowledged.

3. In the case of the acknowledgement of a complaint concerning a telecommunications service, the fee referred to in Article 80 (2) is subject to return.

4. The Minister competent for communications will specify, by means of an ordinance, the complaint proceeding mode as well as the conditions the complaint concerning a telecommunications service should meet, for:

1) not keeping to the deadline for the conclusion of an agreement for provision of the universal service or the service referred to in Article 81 (5) by the designated undertaking,

2) not keeping to the time for the commencement of these services provision, as specified in the telecommunications service provision agreement, by the service Provider,

3) non or inadequate realization of the telecommunications service,

4) inadequate calculation of dues resulting from the provision of the telecommunications service

- having considered the necessary protection of the end user.

Article 107. 1. The end user has the right to vindicate, through judicial proceedings or proceedings referred to in Articles 109 and 110, of any claims defined in the Act resulting from relations with designated undertakings, only upon the complaint procedure having been exhausted.

2. The complaint procedure, in the event referred to in Paragraph 1, is deemed to have been exhausted if the designated undertaking fails to pay the vindicated claim within 30 days of the day the complaint concerning a telecommunications service is acknowledged.

Article 108. 1. Claims vindicated under Article 105 are subject to limitation after a period of 12 months from the end of the settlement period during which the telecommunications service is unavailable, or from the day of a service being inadequately realized or should be realized.

2. The flow of the time limitation for claims is suspended for the period between the filing of a complaint concerning a telecommunications service and the day of answering the complaint, although not longer than the time provided for considering the complaint.

Chapter 4

Methods for the settling of disputes

Article 109. 1. A civil law dispute between a consumer and the Provider of publicly available telecommunications services may be ended in a conciliatory manner during the course of mediation proceedings.

2. Mediation proceedings are conducted by the President of the URTiP on the motion of the consumer or ex officio in the event of consumer protection so requiring.

3. During the course of mediation proceedings, the President of the URTiP acquaints the Provider of publicly available telecommunications services with the consumer claim, presents the provisions of law applicable to this case and the possible proposals for a conciliatory settlement to the dispute by the parties.

4. The President of the URTiP may specify the time period for reaching a conciliatory settlement of the case by the parties.

5. The President of the URTiP revokes mediation proceedings if the case has not been settled in a conciliatory manner within the specified time in addition to cases in which at least one of the parties states that it does not agree to the case being settled in a conciliatory fashion.

Article 110. 1. Permanent consumer arbitration courts under the care of the President of the URTiP, hereinafter called the “arbitration courts”, are created based on agreements with regard to the organizing of such courts concluded between the President of the URTiP and non-governmental organizations which represent consumers, telecommunications undertakings or post operators. The administrative costs for the functioning of arbitration courts are covered by the President of the URTiP.

2. Agreements referred to in Paragraph 1 specify, in particular, the rules for the covering of arbitrator remuneration costs and the returning of the costs born in relation to the performing of arbitrator actions.

3. The arbitration courts examine disputes:

- 1) with regard to property rights resulting from telecommunications services provision agreements, including the ensuring of connection to a public telecommunications network, concluded between consumers and telecommunications undertakings;
- 2) with regard to property rights resulting from post services provision agreements.

4. The Minister of Justice, in agreement with the Minister competent for communications, will specify, by means of an ordinance, the organization and action regulations for arbitration courts under the care of the President of the URTiP, including:

- 1) the internal organization of arbitration courts,
- 2) the functioning mode of arbitration courts,
- 3) the jurisdictional and administrative actions of the arbitration courts and their bodies,
- 4) the requirements concerning arbitrator qualifications and impartiality
- having considered the principles of independence, transparency, adversary trial system, effectiveness and representation, as well as the specificity of telecommunications and post cases.

5. The provisions of the Code of civil procedure apply to proceedings before the arbitration courts in the scope not regulated by the Act.

PART IV

Numbering and frequencies management

Chapter 1

Frequencies management

Article 111. 1. The allocation of frequencies or frequency bands, hereinafter called “frequencies”, to particular radio-communications services and the use of these frequencies are specified in the National Frequency Allocation Table.

2. Frequencies may be used as:

- 1) civil;
- 2) government;
- 3) civil-government.

3. The Cabinet will specify, by means of an ordinance, the National Frequency Allocation Table, the realization of national policy in the scope of frequency resources management, the meeting of requirements concerning electromagnetic and telecommunications compatibility, with consideration for international radio-communications regulations and requirements concerning:

- 1) the ensuring of conditions for the harmonious development of radio-communications services and science and technology domains which utilize the frequency resources,
- 2) the implementation of new, effective radio-communications technologies,

- 3) national defence and security, as well as public safety and order
- being motivated by the necessity for upkeep.

Article 112. 1. The President of the URTiP, upon seeking council from the Telecommunications Council, determines the frequency management plans and changes to these plans upon his own initiative, or:

- 1) on the motion of a body for which frequencies are reserved and in cooperation with this body;
- 2) as needs arise and as technical possibilities allow in the remaining frequency bands.

2. In relation to frequencies intended for the spreading and distribution of radio and television programs, the President of the URTiP determines the frequency management plans and changes to these plans in agreement with the Chairman of the KRRiT, on his instigation or on his own initiative.

3. The agreement referred to in Paragraph 2 regards the number and type of planned frequencies and networks as well as the range and location of transmitter stations.

4. Frequency management plans and their changes include in particular:

- 1) the national policy concerning frequency management;
- 2) the national policy concerning radio and television broadcasting and telecommunications;
- 3) the meeting of requirements concerning electromagnetic compatibility;
- 4) the meeting of requirements concerning national defence and security as well as public safety and order;
- 5) the agreed frequency allocation within the confines of the European Union;
- 6) the need to effectively utilize frequencies, as well as assumptions of entitlement requiring spectrum right issuing policy contained in the motion of the body referred to in Paragraph 2.

5. Frequency management plans and their changes may not violate previously granted spectrum rights.

6. The President of the URTiP provides information with regard to the possibility of frequency utilization to interested entities free of charge.

7. The President of the URTiP publishes in the URTiP Bulletin information with regard to commencing the drawing up of a management plan for a specified frequency band, or the drawing up of changes to this plan. Interested entities in frequency utilization may submit proposals with regard to this plan or its changes.

Article 113. 1. The Minister competent for communications may specify, by means of an ordinance, detailed conditions for the realization of particular radio-communications services within the frequency bands allocated to them, with consideration for the requirements considered in the specifications of the National Frequency Allocation Table.

2. The Minister competent for communications may specify, by means of an ordinance, the detailed conditions for the utilization of frequency bands allocated to equipment used in the industry, medicine or science, with consideration for the requirements assumed in the specifications of the National Frequency Allocation Table.

Article 114. 1. Spectrum or orbital resources right, hereinafter called “spectrum right”, specifies the frequencies or orbital resources which remain, during the spectrum right period, at the disposal of the entity in favour of which the right was granted, the spectrum rights were transferred or the right to administer frequencies in relation to obtaining a radio permission was transferred.

2. Spectrum rights are granted, changed or revoked by:

- 1) The President of the URTiP;
- 2) The Chairman of the KRRiT, in agreement with the President of the URTiP – for spreading and distributing radio and television programs.

3. Spectrum rights are granted for an entity which meets the requirements specified in the Act and if the frequencies included in the application:

- 1) are available;
- 2) have been allocated in the National Frequency Allocation Table for the motioned radio-communications service and the frequency management plan anticipates frequency management in accordance with the motion;
- 3) are protected from electromagnetic disturbances;
- 4) have been internationally agreed in the scope and form specified in international radio-communications regulations or international agreements to which the Republic of Poland is a party;
- 5) are in accordance with the agreed frequency allocation within the confines of the European Union;
- 6) do not cause collision with granted spectrum rights;
- 7) do not lead to ineffective frequency utilization.

4. Spectrum right is granted by the President of the URTiP, by means of an administrative decision, within 6 weeks of the day the application is submitted by the entity applying for spectrum right, unless the granting of such a right requires the carrying out of a tender procedure or the competition or international agreements.

5. Spectrum right is granted for a specified time, with consideration given to the nature of the services provided by the entity applying for spectrum right.

6. The granting of spectrum rights is also permissible in favour of a few users.

7. In the case of frequencies treated as civil-government, the President of the URTiP grants spectrum rights in agreement with the interested entities referred to in Article 4.

8. Provisions concerning spectrum rights do not apply to entities referred to in Article 4, administering frequencies allocated for government use in the National Frequency Allocation Table.

Article 115. 1. The following is specified in the spectrum right:

- 1) the entitled entity, in favour of which the spectrum right is granted, as well as its seat and address;
- 2) the frequency band or orbital positions subject to the right;
- 3) the area, according to the administrative division of the country, in which the frequencies may be utilized;

- 4) the types of radio-communications service, telecommunications network or telecommunications service, in which the reserved frequencies may be utilized;
- 5) the date of frequency utilization commencement;
- 6) the conditions for the issuing of radio permission taking into account the conditions resulting from international agreements to which the Republic of Poland is a party;
- 7) the possibility and conditions for the transferring of entitlement to the frequency on the initiative of the frequency holder, with the preservation of statutory conditions;
- 8) the period for frequency utilization;
- 9) the obligations of the entity assumed within the confines of the tender procedure or the competition, if they have been assumed.

2. In particular, the following may be specified in the spectrum right:

- 1) the conditions for the utilization of frequencies referred to in Article 146;
- 2) the requirements concerning the prevention of harmful electromagnetic disturbances;
- 3) the protective duties concerning electromagnetic radiation;
- 4) the agreements resulting from tender procedure or the competition.

3. Furthermore, the following is performed when granting spectrum rights to frequencies allocated for digitally spreading or distributing programs through broadcasting and satellite broadcasting:

- 1) a determination of the television or radio programs which compromise a unified digital signal spread or distributed with a reserved frequency, hereinafter called the “multiplex signal”;
- 2) the ordering of programs referred to in Subparagraph 1, hereinafter called the “audiovisual components of the multiplex signal”, in the multiplex signal;
- 3) a determination of the proposal for the audiovisual components of the multiplex signal participation in this signal;
- 4) a determination of the area in which the multiplex signal may be spread and distributed;
- 5) a determination of emission system capacity utilization.

Article 116. 1. With the exception of Article 117, should there be no sufficient frequency resources, the entities in favour of which the spectrum right is granted are appointed during the course of the tender procedure.

2. The carrying out of the tender procedure is preceded by consultation proceedings.

3. The time for carrying out the tender procedure may not be longer than 8 months from the day the application for spectrum right is submitted.

4. The tender procedure is carried out by the President of the URTiP. The tender announcement is published in the nationwide daily press and in the URTiP Bulletin and, in the event of the spectrum right being a concern to selected areas only, additionally in the local daily press emanating from the tender relevant areas.

5. The deciding tender evaluation criteria are the preservation of the competition conditions and the amount declared by the entity applying for granting the spectrum right.

6. In the case of the preservation of the competition conditions referred to in Paragraph 5, the President of the URTiP seeks the council of the President of the UOKiK.

7. The provision of Paragraph 1 applies to spectrum right changes respectively.
8. The tender procedure is not carried out in the case of the repeated granting of spectrum rights.

Article 117. 1. Spectrum right for the digital spreading or distribution of radio or television programs is made in the course of a competition for tender announced by the Chairman of the KRRiT in agreement with the President of the URTiP.

2. The time for the carrying out of the competition may not be longer than 6 months from the day the application is submitted by the entity applying for spectrum right.
3. The competition is carried out by the National Broadcasting Council. The competition announcement is published in the nationwide daily press and in the URTiP Bulletin and, in the event of the spectrum right being a concern to selected areas only, additionally in the local daily press emanating from the tender relevant areas.
4. The deciding competition offer evaluation criteria are the preservation of the competition conditions.
5. In the case of the preservation of the competition conditions referred to in Paragraph 4, the Chairman of the KRRiT seeks the council of the President of the UOKiK.
6. The competition is not carried out in the case of the repeated granting of spectrum rights.

Article 118. 1. The tender procedure or the competition, or withdrawing from it, is announced immediately after the consultation proceeding in this case ends.

2. The announcement with regard to the tender procedure or to the competition specifies the subject of the tender procedure or the competition, its scope, participation conditions and criteria of choice.
3. The tender or the competition documentation, hereinafter called the “documentation”, may specify the conditions for the performance of telecommunications activity requiring the utilization of frequency resources subject to the tender procedure or to the competition.
4. The President of the URTiP, with the exception of Paragraph 5, specifies in the documentation the conditions for participation in the tender procedure or in the competition, as well as the requirements the tender should meet and the tender evaluation criteria.
5. The National Broadcasting Council specifies in the competition documentation referred to in Article 117 the participation conditions, requirements the offer should meet as well as the offer evaluation criteria.
6. The National Broadcasting Council specifies the competition conditions referred to in Article 117, taking additionally into consideration undertaking obligations and tasks in the scope of program content, including the conditions concerning obligatory transmission and program content, having considered the extra-economic national interest concerning culture, language and media pluralism.

7. The documentation is made available at a fee that may not exceed the documentation preparation costs. This fee is considered to be income of the national budget.
8. The appropriate body, by means of an administrative decision, invalidates the tender procedure or the competition in the event of gross violation of the legal regulations or tender procedure or the competition participant rights.
9. The appropriate body recognizes, by means of an administrative decision, that the tender procedure or the competition remains unresolved in the event of:
- 1) none of the participants meeting the tender procedure or the competition participation conditions or reaching the qualifying minimum indicated in the documentation;
 - 2) no entity entering the tender procedure or the competition within the time indicated in the documentation;
 - 3) the number of the tender procedure or the competition being lower than or equal to the number of entities entitled to apply for spectrum right.
10. In the events referred to in Paragraph 9 (3), the provision of Article 116 (1) does not apply.
11. The tender and the competition results are announced in the seat and on the web site of the appropriate body.

Article 119. 1. The amount of the tender guarantee is also specified in the tender procedure announcement.

2. The amount of the tender guarantee cannot be lower than 5 % of the single fee referred to in Article 185 (4), nor higher than 20% of this fee, although not lower than PLN 500.

3. The withdrawal of a tender from the tender procedure or resignation from receiving the spectrum right by the Tenderer appointed in the tender procedure results in the loss of the tender guarantee.

4. The tender guarantee paid by the Tenderer appointed in the tender procedure is returned within 14 days of the day of receiving the spectrum right.

Article 120. The Minister competent for communications will specify, by means of an ordinance, the procedure for announcing the tender procedure referred to in Article 116 which ensures that the entities interested in receiving the spectrum right are appropriately informed, as well as:

- 1) the detailed requirements with regard to the announcement text and documentation contents,
 - 2) the conditions and procedures of the tender procedure, including:
 - a) the appointment and work of the tender commission,
 - b) the manner of payment and return of the tender guarantee – in the case of the tender procedure
- being motivated by the need to provide tender procedure conditions which are objective, transparent and do not discriminate against any of the tender procedure participants, as well as clear decision making conditions.

Article 121. The National Broadcasting Council will specify, by means of an ordinance, the procedure for announcing the competition to tender referred to in Article 117 which ensures that the entities interested in receiving the spectrum right are appropriately informed, as well as, in particular, the requirements concerning the announcement text, documentation contents, the conditions and procedure of organization, the carrying out and closing of the competition, at all times being motivated by the need to provide the competition conditions which are objective, transparent and do not discriminate against any of the competition participants, as well as clear decision making conditions.

Article 122. 1. With the exception of the spectrum right referred to in Article 114 (2) (2), the President of the URTiP may change the spectrum right in the scope referred to in Article 115 (1) (1) and (1) (9), on the condition of preserving the allocation of the frequency subject to this right, on condition that:

- 1) the entity owning this right submits an application for changes to the entity in favour of which the spectrum right was granted, and indicates the entity which is entitled due to changes to this right in this application;
- 2) the entity which is entitled due to a change in the spectrum right expresses a written accord to take over the rights and obligations resulting from changes to this right;
- 3) the entity indicated in the application referred to in Subparagraph 1 meets the requirements specified in the Act;
- 4) the possibility for such change in the right has been foreseen in the spectrum right.

2. The President of the URTiP will be motivated by the necessity to preserve the competition conditions when granting a spectrum right change in the scope referred to in Paragraph 1.

3. The provisions of Paragraphs 1 and 2 do not apply to entities referred to in Article 4.

4. The President of the URTiP makes the change to the spectrum right granted as a result of the tender procedure upon obtaining the opinion of the President of the UOKiK.

Article 123. 1. A spectrum right may be changed or revoked, by means of an administrative decision of the appropriate body, on condition that:

- 1) it is ascertained that using radio equipment according to the right causes harmful electromagnetic disturbances;
- 2) the National Frequency Allocation Table for allocation of frequencies subject to spectrum right has been changed;
- 3) circumstances leading to the endangering of national defence or security, or public safety and order occur;
- 4) the use of frequencies subject to spectrum right will not commence within 12 months of the time referred to in Article 115 (1) (5) and, in the case of frequencies allocated to spreading and distributing radio and television programs, within 6 months;
- 5) the frequencies are not utilized for at least 12 months, and, in the case of frequencies allocated to spreading and distributing radio and television programs, for at least 6 months;
- 6) repeated violations of frequency utilization conditions, or the obligation to pay for the frequencies occur.

2. The President of the URTiP may change the frequency utilization conditions, in cases where:

- 1) frequencies subject to right are utilized to a small extent or ineffectively;

- 2) radio equipment operation is interfered by other telecommunications equipment or networks.
3. The change of utilization conditions of the frequency referred to in Paragraph 2, allocated to spreading and distributing radio and television programs, is made by the Chairman of the KRRiT in agreement with or on motion of the President of the URTiP.
4. The decision with regard to the revoking of spectrum right to frequencies allocated to spreading and distributing radio and television programs is made by the President of the KRRiT immediately upon receiving notification from the President of the URTiP with regard to a violation of the rules for the utilization of this frequency resulting from provisions of the Act or decisions concerning the right.
5. The spectrum right expires by force of law in the case of revocation or of exceeding the time for which it is granted.
6. Spectrum right granting refusal occurs if:
 - 1) the applicant is not able to acquit himself of the conditions related to frequency or orbital resources utilization;
 - 2) the occurrence of circumstances referred to in Paragraph 1 (3);
 - 3) such a right is a violation of international agreements to which the Republic of Poland is a party.
7. During spectrum right validity, a licence for using radio equipment utilizing the frequencies subject to right may be granted or revoked, should one of the following circumstances occur:
 - 1) a threat to national defence or security, or to public safety and order;
 - 2) a violation of international agreements to which the Republic of Poland is a party;
 - 3) telecommunications apparatus and networks operation interference;
 - 4) failure to meet the conditions referred to in Article 114 (3) (2), unless the legal or actual status used as a basis for granting the right has changed.
8. The refusal to grant spectrum right, to change or revoke it in the case referred to in Paragraph 1 (3), as well as a refusal to issue a radio licence or to revoke it due to these circumstances, occurs upon obtaining the opinion of or on the motion of the Minister of National Defence, the Minister competent for internal affairs, the Head of the Internal Security Agency or Head of the Foreign Intelligence Agency, in the scope of their authority.
9. In the event of the justification of the opinion or the motion of authorities referred to in Paragraph 8, indicating circumstances leading to the endangering of national defence or security or public safety and order, including information being a state secret, a notification that the justification has been drawn up is delivered in lieu of the justification itself.
10. The authorities referred to in Paragraph 8 assume their position within 30 days of the day of applying for an opinion or the day of submitting a motion referred to in Paragraph 8.
11. In the event of the authorities referred to in Paragraph 8 not assuming a position in the time referred to in Paragraph 10, it is assumed that the requirement of receiving the position has been met.

Article 124. The entity which has had the spectrum right revoked due to not acquitting himself of the obligation referred to in Article 185 may submit an application for granting a right in his favour not earlier than 3 years after the issuing of the right revocation decision.

Article 125. The provision of Article 123 (1) (2) applies to the spectrum right granted under Article 114 (7).

Chapter 2

Numbering management

Article 126. 1. The President of the URTiP assigns, by means of an administrative decision, numbering according to national numbering plans for public networks to telecommunications undertakings and on the motion of entities referred to in Article 4 (1), (2), (4) and (8).

2. Numbering assignment with a fixed allocation is made not later than 3 weeks from the application submission.

3. The President of the URTiP assigns numbering, for which more than one application has been submitted:

- 1) upon the carrying out of the consultation procedure,
- 2) by means of a tender procedure, in the event of the consultation procedure revealing that such a procedure is necessary

- not later than 6 weeks from the day the first application is submitted.

4. The tender procedure is carried out by the President of the URTiP. The tender announcement is published in the daily nationwide press and in the URTiP Bulletin.

5. The tender procedure is subject to the provisions of Article 118 (1), (2), (4), (8), (9) and (11).

6. The deciding tender evaluation criterion is the amount declared by the entity applying for the numbering assignment.

7. Numbering assignment may define the conditions of numbering utilization or its availability, in particular the obligation of non-discriminating access to telecommunications services using numbering assigned to other undertakings.

8. The President of the URTiP denies the assignation of numbering in the event of the anticipated use of the numbering being inconsistent with the national numbering plan for public networks.

9. The President of the URTiP may deny the assignation of a new numbering range in the case of the use of less than 75% of the numbering ranges previously assigned.

10. The President of the URTiP may revoke a numbering assignment or change its range, in such cases as where:

- 1) the proper national numbering plan for public networks has changed;
- 2) the entity which receives the decision with regard to numbering assignment does not use the assigned numbering range in a quantitatively effective manner, and in the case of access numbers and similar single numbers not launching the service specified by this number within 12 months of receiving the decision with regard to numbering assignment;
- 3) the entity which receives the decision with regard to numbering assignment uses numbering assigned to it in a manner inconsistent with numbering assignment conditions or the numbering allocation specified in the proper national numbering plan for public networks;
- 4) the entity which receives the decision with regard to the numbering assignment does not pay for the right to use the numbering resources.

11. The numbering assignment revocation or numbering range change decision:

- 1) cannot cause interference to the continued provision of telecommunications services by the entity which receives the assignment;
- 2) may be made after ineffective calls to the entity to remove the cause of the irregularity in cases described in Paragraph 10 (2) and (3).

12. The Minister competent for communications will specify, by means of ordinances:

- 1) the national numbering plan for public networks, specifying the range of the plan and number formats in particular,
- 2) the detailed requirements concerning numbering management in public telephone networks

- having considered current and forecast telecommunications undertakings and user needs, including services referred to in Article 129, the provisions of international regulations, in particular regarding long term, pan-European numbering plans, as well as provisions of agreements to which the Republic of Poland is a party.

13. The Minister competent for communications may specify, by means of ordinances, national numbering plans for public networks other than public telephone networks, as well as the detailed requirements concerning the addressing of principles for proper connection routing, signal points numbering and subscriber identifying sign creation and availability, having considered current and forecast telecommunications undertakings and user needs, the provisions of international regulations, in particular regarding long term, pan-European numbering plans, as well as the provisions of agreements to which the Republic of Poland is a party.

Article 127. 1. The President of the URTiP will develop a collective breakdown of assigned numberings, in the form of Numbering Management Tables.

2. The President of the URTiP provides information about available numbering to interested entities free of charge.

Article 128. 1. The entity which receives a numbering assignment by means of an administrative decision makes the assigned numbering available to entities cooperating with its telecommunications network as well as entities providing telecommunications services, on their motion, based on a written numbering accessibility agreement or on the agreement referred to in Article 31.

2. The numbering accessibility agreement may define the conditions for the use of the numbering made available.

3. The conclusion of a numbering accessibility agreement is denied in cases where there is no numbering or if the making available of such numbering hinders or limits the activity of the entity which receives the numbering assignment.

4. The provisions of Articles 27-31 apply to this agreement.

Article 129. The number 112 is specified as the emergency number for all services called upon by law to provide assistance.

Article 130. The provisions of Articles 126 and 128 apply accordingly to the assignation, denying or revoking of the assignment of subscriber identifying signs and the granting or refusal of their availability.

Article 131. 1. The entity which receives the numbering assignment may make any necessary changes in numbering for specified areas of its public network, or changes to individual subscriber numbers in this network, in the case of a change of the numbering range assignment or a transformation or extension of the exploited public network.

2. The planned numbering changes, for specified telecommunications network areas, should be publicly announced by the entity which receives the numbering assignment at least 90 days before any implementation of change.

3. The entity which receives the numbering assignment shall notify subscribers with regard to planned changes to their individual numbers and to their new numbers in writing, at least 90 days before the implementation of this change. A shortening of this period requires the consent of the President of the URTiP.

4. The entity which receives the numbering assignment shall provide automatic verbal information with regard to the implemented numbering changes referred to in Paragraphs 1-3 free of charge, available under the previous number for a period of at least 12 months.

PART V

Digital radio and TV transmissions

Article 132. Public telecommunications networks used for digital radio and TV transmissions and TV sets, as well as other equipment used for receiving digital radio and TV transmissions

should ensure the interoperability of digital radio and TV transmissions, in particular by the use of an open application program interface.

2. Public telecommunications networks used for providing digital TV services should meet the technical and exploitation requirements which allow for the provision of wide-screen TV services. Telecommunications undertakings which receive programs and services in the widescreen format are to spread them without a change from the wide-screen format to another format.

3. The Minister competent for communications will specify, by means of an ordinance, the technical and exploitation requirements for consumer equipment used to receive digital radio and TV transmissions, having considered the ensuring of the interoperability of digital radio and TV transmissions services received by them.

Article 133. 1. Telecommunications undertakings providing conditional access systems should offer broadcasters technical services, allowing the receiving of digital radio and TV transmissions using decoders installed in the networks or at the subscribers, on equal and indiscriminating rules.

2. Telecommunications undertakings providing conditional access systems shall run separate accounting for this activity.

3. The Minister competent for communications, in agreement with the National Broadcasting Council, may specify, by means of an ordinance:

- 1) the technical and exploitation requirements for conditional access systems, having considered the ensuring of executing full control over digital radio and TV transmissions using the conditional access systems by telecommunications undertakings, and being motivated by the pursuit of creating conditions for the effective provision of services using these systems;
- 2) the detailed range of technical services offered to broadcasters under the conditions referred to in Paragraph 1 by telecommunications undertakings which provide conditional access systems in order to allow the receipt of digital radio and TV transmissions using decoders installed in the networks or at the subscribers.

Article 134. Upon performing a market analysis under Article 23, the Chairman of the KRRiT may, by means of an administrative decision, waive the obligation to provide access to conditional access systems under conditions referred to in Article 133 (1) for a telecommunications undertaking which does not possess significant market power in the conditional access systems market, after performing a consultation and consolidation proceeding.

Article 135. 1. Owners of industrial property rights to conditional access systems and services provided via these systems shall conclude license agreements with manufacturers of consumer equipment meant for receiving digital radio and TV transmissions on equal and non-discriminating conditions.

2. The provisions of license agreements referred to in Paragraph 1 should not prohibit, limit or discourage from including in the equipment referred to in Paragraph 1:

- 1) a common interface allowing for connection to other conditional access systems,
- 2) elements proper for other conditional access systems if the licensee obeys conditions which guarantee the safety of transactions made by the conditional access systems operators

- having given consideration to technical and economic factors.

3. The provisions of Industrial Property Law of 30 July 2000 (Journal of Laws of 2003 No. 119 item 1117 and of 2004 No. 33, item 286) apply to license agreements where they are not regulated by the provisions of Paragraphs 1 and 2.

Article 136. 1. The Chairman of the KRRiT may, by means of an administrative decision, impose the obligation on telecommunications undertakings to provide access to the following accompanying facilities:

- 1) application program interface,
- 2) electronic program guide

- in order to ensure end user access to digital radio and TV transmissions.

2. Consultation and consolidation proceeding provisions apply to the decision referred to in Paragraph 1.

3. The President of the URTiP issues the decision referred to in Paragraph 1, being motivated by the principle of equality and indiscrimination.

PART VI

Telecommunications infrastructure, equipment and radio equipment

Chapter 1

Telecommunications infrastructure

Article 137. 1. Operators shall provide the President of the URTiP and other interested entities with the technical specifications of utilized network termination points, radio interfaces and changes to their operation before the telecommunications services to be rendered using these network termination points or radio interfaces become available to users.

2. The technical specifications referred to in Paragraph 1 should include enough detail to allow the design of telecommunications terminal equipment able to utilize all services provided by a given network termination point or radio interface and include, in particular, information which allows manufacturers to perform tests allowing the verification as to whether a telecommunications terminal equipment meets its applicable essential requirements.

Article 138. 1. The President of the URTiP gathers and analyses information with regard to the technical characteristics of internetwork interfaces used in public telecommunications networks.

2. In the event of the information analysis referred to in Paragraph 1 showing that the interoperability of the telecommunications services is in danger, the President of the URTiP draws up suggestions for technical solutions designed to remove such a danger, having given consideration to the possibility of performing the obligations referred to in Article 32 (1), and submits them to the Minister competent for communications.

3. The Minister competent for communications may specify, by means of an ordinance, the technical requirements for interfaces referred to in Paragraph 1, having considered the need to ensure telecommunications services interoperability and being motivated by international regulations.

4. Consolidation proceeding provisions apply to the ordinance draft referred to in Paragraph 3.

Article 139. 1. The operator of a public telecommunications network shall allow access to other operators of public telecommunications networks, as well as the entities referred to in Article 4, to buildings and telecommunications infrastructure, and in particular to equipment regarding the creation, exploitation, supervision and conservation of telecommunications, in the event of the performing these activities without access to buildings and telecommunications infrastructure being impossible or inadvisable from a special planning, human health or environmental protection perspective, or in the event of there being no technical or economic legitimacy for the duplication of existing telecommunications infrastructure.

2. The conditions of access in the scope referred to in Paragraph 1 are specified by the operators in an agreement, which should be concluded within 30 days of the day of applying for its conclusion.

3. The conditions and the manner of execution of building and telecommunications infrastructure access agreements should not lead to the limitation of rights to perform telecommunications activities to which the operators jointly utilizing the telecommunications network are entitled, with the exception of objective cases associated with the lack of technical possibilities.

4. The provisions of Articles 27-30, Article 31 (1), Article 33, 36-40, Article 42 (1)-(3) and Articles 43-45, with the exception of Paragraphs 1-3, apply to ensuring building and telecommunications infrastructure access.

Article 140. 1. The owner or perpetual user of real property shall allow the operator and entities referred to in Article 4 (1), (2), (4), (5) and (8) the installation of telecommunications equipment on the property, passing cable lines under, on or over the property and placing information plates on the equipment, as well as their exploitation and conservation, unless doing so makes rational property use impossible.

2. The conditions of using the property by an operator are specified in an agreement, which should be concluded within 30 days of the day the operator applies for its conclusion.

3. Using the property referred to in Paragraph 1 is paid, unless the line or telecommunications equipment are used for providing telecommunications to the property owner or user on their request.

4. In the event of the parties not concluding the deal within the given time period, the provisions of Article 124 of the Immovable Property Management Act of 21 August 1997 (Journal of Laws of 2000 No. 46, item 543, with subsequent amendments⁴) entitle the President of the URTiP to take part in the contentious procedure as a party. The provisions of the Code of Administrative Procedure concerning the prosecutor apply to the President of the URTiP.

5. If the real property is subject to use, lease, tenancy or permanent management, the provisions of Paragraphs 1-4 apply accordingly.

Article 141. The provisions of Article 140 apply to telecommunications infrastructure co-use by operators which acquire the rights for its installation, use or conservation on third party property.

Article 142. Public administration authorities controlling the operator or owning a controlling share of the operator ensure a structural separation of functions associated with the performing of their tasks and ownership rights regarding this operator.

Chapter 2

Use and operation of radio equipment

Article 143. 1. With the exception of Article 144, the use of radio equipment requires the possession of a radio licence, hereinafter called the “licence”.

2. The licence is issued by the President of the URTiP, by means of an administrative decision.

3. The procedure for the issuing of a licence is initiated upon a written application from an interested entity.

4. The entity possessing a spectrum right may demand the issuing of a radio licence utilizing frequencies included in the spectrum right for the period during which the right is valid.

5. The Minister competent for communications may specify by means of an ordinance, the template and procedure for the submission of an application for issuing a licence as well as the documents attached which are required to decide the case, having considered the specifics of radio-communications services, telecommunications networks or telecommunications services in which the radio equipment are to be utilized.

⁴ Amendments to the uniform text of the aforementioned Act were announced in the Journal of Laws of 2001 No. 129, item 1447 and No. 154, item 1800, of 2002 No. 25, item 253, No. 74, item 676, No. 113, item 984, No. 126, item 1070, No. 130 item 1112, No. 153, item 1271, No. 200, item 1628 and No. 240, item 2058, of 2003 No. 1, item 15, No. 80, items 717, 720 and 721, No. 96, item 874, No. 162, item 1568, No. 203, item 1966 and No. 217, item 2124 and of 200 No. 6, item 39, No. 19, item 177, No. 91, item 870, No. 92, item 880 and No. 141, item 1492.

6. In the case of radio frequencies which have been allocated in the National Allocation Table or frequency management plan, the decision should be made within 6 weeks of the day the application is submitted.

7. The provision of Paragraph 6 does not apply to events requiring international agreements or resulting from international agreements binding for the Republic of Poland in the field of radio frequency or orbital position use.

Article 144. 1. The use radio equipment solely for receiving does not require a licence.

2. A licence is not required for the use of a transmitter or a transceiver:

- 1) used for the needs of foreign air, maritime or inland shipping radio-communications, according to international radio-communications regulations, in the event of the equipment being licensed for use by a proper national or foreign authority;
- 2) used in the amateur radio-communications service, according to international radio-communications regulations for a maximum 90 days;
- 3) terminal, using internationally agreed frequency bands:
 - a) connected to a public operator telecommunications network termination points,
 - b) used for maintaining communications with a foreign vehicle, maritime or inland ship or aircraft, remaining on the territory of the Republic of Poland for a short time or during transit, which is permanently attached to this vehicle, aircraft or ship,
 - c) not requiring spectrum right.

3. . The Minister competent for communications may, by means of an ordinance, broaden the range of transmitters and transceivers which may be used without a licence, being motivated by the principle of increasing the number of types of this equipment.

Article 145. 1. The licence specifies:

- 1) the entity entitled, together with its seat and address;
- 2) the type, specific type and the manufacturer's name of the radio equipment the licence concerns;
- 3) the frequency utilization conditions;
- 4) the equipment use conditions, in particular the type of radio-telecommunications service or telecommunications network the equipment may be used in;
- 5) the date of expiry;

- 6) the date of frequency utilization commencement;
 - 7) the obligations accepted by the entity which receives the right to utilize frequencies, during the tender procedure or competition referred to in Article 116.
2. The licence may include the specifications of equipment use conditions and user obligations in situations of particular threat.
3. The licence may include the assignment of identifying signals or call signs.
4. The licence entitles the utilization of the frequencies, identifying signals and call signs included in the licence.

Article 146. 1. Frequency utilization conditions should specify in particular:

- 1) For ground radio equipment or spectrum right for providing telecommunications services using such equipment:
 - a) the frequency or limit frequencies of frequency channels or bands, or channel numbers,
 - b) the location of the equipment or the area of its operation,
 - c) the radiated power or output power,
 - d) the polarization, altitude of installation and transmitting antenna radiation characteristics,
 - e) the signal type and technical parameters of its emission;
- 2) For a earth satellite station or spectrum right for providing telecommunications services using a transceiver located on an artificial satellite above the Earth:
 - a) The name of the satellite and its position,
 - b) The earth satellite station location or its area of operation accordingly,
 - c) The frequency or limit frequencies of frequency bands or frequency channels, or channel numbers, used to transmit signals in space-Earth and Earth-space directions,
 - d) The signal type and technical parameters of its emission.

2. The frequency utilization conditions may specify a date of frequency utilization commencement.

Article 147. 1. Articles 122 and 123 apply accordingly to licence revocation or change.

2. Article 123 applies to licence issuing denial.

3. The President of the URTiP may also revoke a licence or change the frequency utilization conditions in the event of:

- 1) ascertaining that the use of the radio equipment in accordance with the licence interferes the operation of other equipment or telecommunications networks;
- 2) a change in the National Frequency Allocation Table concerning the allocation of frequencies included in the licence;
- 3) the non-commencement of the utilization of frequencies included in the licence within 12 months of the day of issuing the licence or the day of its utilization commencement specified in the licence.

4. The President of the URTiP may also change frequency utilization conditions when:

- 1) frequencies included in the licence are hardly utilized or utilized in an ineffective manner;
- 2) the radio equipment operation is interfered by other equipment or telecommunications networks.

5. The licence expires from the force of law with the expiration of the spectrum right.

Article 148. 1. With the exception of Paragraph 4, the licence is issued to an entity which meets the requirements defined in the Act, and in the event of:

- 1) circumstances referred to in Article 123 (7) (1)-(3) not occurring;
- 2) frequencies included in the application:
 - a) being available,
 - b) having been allocated in the National Frequency Allocation Table for the radio-communications service included in the application, and the frequency management plan provides for their management being consistent with the application,
 - c) being protected from electromagnetic disturbances,
 - d) having been internationally agreed in the scope and form specified in international radio-communications regulations or agreements to which the Republic of Poland is a party;
- 3) the applicant will submit:
 - a) a confirmation of the meeting of essential requirements by the equipment,
 - b) the required radio operator certificate, in the case of an individual,

- c) a certificate, in the event of possessing one,
- d) the spectrum right, in the event of it having been made.

2. The obligation referred to in Paragraph 1 (3) (a) does not apply to equipment meant for exclusive use in the amateur radio-communications service, or those not being part of a business offer.

3. Radio licences for radio-communications services other than amateur radio-communications service are issued for a maximum of 10 years.

4. The Minister competent for communications will specify, by means of an ordinance, for amateur radio-communications services:

- 1) the types of licences,
- 2) the requirements essential for obtaining the licence,
- 3) the date of expiry of the licences

- having considered the type of radio-communications operator in the amateur radio-communications and the service certificate possessed by the applicant.

Article 149. 1. The operation of a transmitter or transceiver used in air, maritime and inland shipping radio-communications, as well as in the amateur radio-communications service, requires radio-equipment operator certificate.

2. The provision of Paragraph 1 does not apply to individuals performing duties within the tasks of organizational cells or organizational units subordinate to the Minister of National Defence or supervised by him, or to the entities referred to in Article 4 (3).

Article 150. 1. The President of the URTiP issues radio equipment operator certificate based on a positive result from an exam which tests the knowledge and skills of the individual applying for the radio equipment operator certificate and after the applicant documents the required practice.

2. The examinations for individuals applying for the radio equipment operator certificate are carried out by a commission appointed by the President of the URTiP.

3. Fees are collected for the carrying out of the examination and for issuing radio equipment operator certificate. These fees are deemed income of the national budget.

4. The Minister competent for communications, in agreement with the Minister competent for transport and the Minister competent for maritime economy, will specify, by means of an ordinance:

- 1) the types and specimens of radio equipment operator certificates, the scope of examination requirements, as well as the scope, procedure and time for essential training and practice,

- 2) the examination procedure, including repeat examinations, the manner of appointing the examination commission, as well as the amount of fees for the carrying out of the examinations and the issuing of certificates, being motivated by the principle that they should not be a barrier to individuals interested in operating radio equipment

- having considered international radio-communications regulations as well as international regulations.

Article 151. Individuals who have the proper radio equipment operator certificate issued by the President of the URTiP or an entitled foreign authority, may operate transmitters or transceivers used for the needs of foreign air radio-communications or foreign maritime and inland shipping radio-communications on the territory of the Republic of Poland, in accordance with international radio-communications regulations.

Chapter 3

Requirements regarding apparatus, telecommunications terminal and radio equipment

Article 152. In the scope not regulated in this chapter, the provisions of the Conformity Assessment System Act of 30 August 2002 (Journal of Laws No. 166, item 1360 with subsequent amendments⁵ apply to requirements regarding apparatus, including telecommunications terminal equipment and radio equipment.

Article 153. 1. Marketed radio equipment and telecommunications terminal equipment should meet requirements in the scope of:

- 1) health protection and user safety,
- 2) effective utilization of frequency resources or orbital resources in the case of radio equipment,
- 3) electromagnetic compatibility in the scope resulting from their purpose

- hereinafter called the “essential requirements”.

2. The Minister competent for communications may, according to a decision of the European Commission, and by means of ordinances, specify additional requirements in the scope of:

- 1) ensuring the protection of communications confidentiality,
- 2) protection from unauthorized equipment use,
- 3) allowing access to network equipment to services called upon by the law to provide assistance,

⁵ Amendments to the uniform text of the aforementioned Act were announced in the Journal of Laws of 2003 No. 80, item 718, No. 130, item 1188, No. 170, item 1652 and No. 229, item 2275 and of 2004 No. 70, item 631, No. 92, item 881, No. 93, item 896 and 899 and No. 96, item 959.

- 4) adaptation for use by disabled persons,
 - 5) ability to cooperate with other telecommunications equipment used in the telecommunications network or connected to it, in particular so as not to damage the telecommunications network or interfere its functioning
- which should be met by the equipment regardless of essential requirements, and which specify the deadline for using marketed equipment which does not meet the requirements specified in the ordinance, having considered telecommunications network functioning correctness and being motivated by international regulations.
3. The equipment referred to in Paragraph 1 is subject to obligatory conformity assessment procedures.
4. The provision of Paragraph 3 does not apply to:
- 1) equipment meant for use solely in the amateur radio-communications service, not being a part of a business offer, including sets of parts for equipment assembly and equipment modified by radio amateurs for their own needs for use in the amateur radio-communications service;
 - 2) equipment adapted solely for receiving radio and TV signals;
 - 3) wires and cables meant for electrical and telecommunications installations;
 - 4) radio-communications equipment subject to maritime equipment regulations;
 - 5) equipment meant for use in civil aviation;
 - 6) equipment meant for use in flight control and aircraft traffic management;
 - 7) equipment meant for use solely by the entities referred to in Article 4.

Article 154. 1. Radio equipment which is subject to marketing restrictions in Member States due to the equipment operating at a frequency band whose utilization has not been harmonized on the territory of these states, constitutes class 2 equipment and should be marked with a warning sign by the manufacturer or its authorized representative prior to marketing.

2. The provision of Paragraph 1 also applies to radio equipment which is subject to marketing restrictions in Member States, due to:

- 1) frequency band utilization effectiveness;
- 2) harmful electromagnetic disturbance elimination;
- 3) public health protection.

3. Telecommunications terminal equipment and radio equipment which is not subject to marketing restrictions in Member States constitutes class 1 equipment.

4. The President of the URTiP publishes, on URTiP web site, a sample list of radio equipment constituting class 1 equipment.

5. The Minister competent for communications will specify, by means of an ordinance, the manner and template for marking class 2 radio equipment with warning signs, having considered the corresponding European Union regulations in force⁶.

Article 155. 1. The entity marketing the apparatus subject to obligatory conformity assessment shall provide the President of the URTiP, on every demand, with an explanation concerning the apparatus subject to obligatory conformity assessment; its purpose and technical and exploitation qualities, as well as indicate the scope of its utilization, with the exception of Paragraph 2.

2. The entity marketing radio equipment shall notify the President of the URTiP with regard to the intent to market this equipment at least 28 days prior to the planned marketing date. This notification should include essential information concerning its purpose, technical and exploitation qualities and the scope of utilization of the marketed radio equipment.

3. The Minister competent for communications will specify, by means of an ordinance:

- 1) the types of radio equipment subject to the obligation defined in Paragraph 2, considering the frequency bands utilized by this equipment;
- 2) the manner, scope and procedure of providing information referred to in Paragraph 2, including a template of the form for providing such information, for the scope of provided information to be essential to the realization of efficient supervision over the marketed radio equipment.

4. The provisions of Paragraphs 1-3 do not apply to telecommunications equipment transferred for use by the entities referred to in Article 4.

Article 156. The exhibition of telecommunications equipment subject to obligatory conformity assessment with essential requirements evaluation, without the declaration of conformity and the conformity marking for the purpose of exhibition in fairs, exhibitions and demonstrations, may not be marketed nor utilized until the conformity assessment procedures have been performed, and is placed in a visible area.

Article 157. 1. Apparatus should be constructed in such a manner, so that:

- 1) it does not cause electromagnetic disturbances in its environment which exceed the resistance to such disturbances of other apparatus present in this environment;
- 2) it has the required resistance to electromagnetic disturbances.

2. Apparatus, which may cause electromagnetic disturbances or in the event of its operation may be influenced by such disturbances, is subject to the obligatory conformity assessment

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 (OJ EC L 91, 7.4.1999, p.10).

with the requirements referred to in Paragraph 1, hereinafter called the “essential requirements concerning electromagnetic compatibility”.

3. The provisions of Paragraphs 1 and 2 do not apply to:

- 1) equipment referred to in Article 153 (4) (1) and (4) (7);
- 2) medical products as provided in the Medical Product Act of 20 April 2004 (Journal of Laws No. 93, item 896);
- 3) automobile vehicles or trailers meant for attachment to automobile vehicles and tractors as provided by the Road Traffic Law of 20 June 1997 (Journal of Laws of 2003 No. 58, item 515, with subsequent amendments⁷);
- 4) products, parts and aircraft apparatus as provided by Regulation (EC) No. 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and the establishment of a European Aviation Safety Agency (OJ EC L 240 of 7.9.2002).

4. The provision of Paragraph 1 (2) does not apply to non-automatic weighing instruments.

Article 158. 1. The manufacturer marketing the products referred to in Article 152, or the manufacturer's authorized representative, shall provide, for control purposes, the documentation associated with apparatus conformity assessment, including telecommunications terminal equipment and radio equipment, for a minimum period of 10 years from the date of manufacture of the final piece of such apparatus.

2. The manufacturer, or its authorized representative, attaches a declaration of conformity and information with regard to the use of the given telecommunications equipment to telecommunications equipment or radio equipment subject to an obligatory assessment of conformity with essential requirements.

3. In relation to radio equipment, the information referred to in Paragraph 2 should allow the identification of the country or geographic area where the given equipment may be used.

4. In relation to telecommunications terminal equipment designed for connection to public network termination points, the information referred to in Paragraph 2 should allow the determination of which public network termination points the given equipment may be connected to.

PART VII

Telecommunications confidentiality and end-user data protection

⁷ Amendments to the uniform text of the aforementioned Act were announced in the Journal of Laws of 2003 No. 124, item 1152, No. 130, item 1190, No. 137, item 1302, No. 149, item 1451 and 1452, No. 162, item 1568, No. 200, item 1953 and No. 210, item 2036 and of 2004 No. 29, item 257, No. 54, item 535, No. 92, item 884 and No. 121, item 1264.

Article 159. 1. The communications confidentiality within telecommunications networks, hereinafter called the “telecommunications confidentiality”, encompasses:

- 1) data concerning the user;
- 2) individual message content;
- 3) transmission data understood as data processed for the purpose of transferring messages within telecommunications networks or charging payments for telecommunications services, including location data, which should be understood as any data processed in a telecommunications network indicating geographic location of the terminal equipment of a user of publicly available telecommunications services;
- 4) location data, understood as location data beyond the data necessary for message transmission or bill issuing;
- 5) data with regard to connection attempts between specified telecommunications networks terminations.

2. Knowledge of record store, transfer or other use of contents or data subject to telecommunications confidentiality by individuals other than the message sender and receiver is forbidden, unless:

- 1) it is subject to a service or it is required to realize it;
- 2) it is agreed on by the sender or receiver who such data concern;
- 3) performing this action is essential to record messages and transmission data associated with it, in the event of such recording is part of a legal business practice meant for providing business transaction proof in business activity;
- 4) it is necessary for other reasons provided for in the Act or separate regulations.

3. With the exception of cases specified in the Act, the disclosure or processing of content or data subject to telecommunications confidentiality violates the obligation to keep the telecommunications confidentiality.

4. The provisions of Paragraphs 2 and 3 do not apply to messages and essentially public data, data for a public purpose or disclosed by a ruling of a court, a prosecutor or under separate regulations.

Article 160. 1. An entity participating in the performing of telecommunications activity within public networks and the entities cooperating with it shall keep the telecommunications confidentiality.

2. The entities referred to in Paragraph 1 shall maintain the appropriate care, in the scope justified by technical or economic considerations, to secure telecommunications equipment, telecommunications networks and data files from disclosing the telecommunications confidentiality.

3. A person coming into possession of a message not meant to be read by him/her when using radio or terminal equipment, shall keep the telecommunications confidentiality. The provisions of Article 154 (3) and (4) apply accordingly.

4. The recording of a message, acquired in the manner described in Paragraph 3, by a body executing control of telecommunications activity in order to document the fact of a violation of a regulation of the Act, is not a violation of the telecommunications confidentiality.

Article 161. 1. With the exception of Paragraph 2, content or data subject to telecommunications confidentiality may be collected, recorded, stored, worked upon, changed, deleted or made available only in the event of these actions, hereinafter called the “processing”, concerning a service provided to the user or are necessary to realizing it. Processing for other purposes is permissible only under legal regulations.

2. The provider of publicly available telecommunications services is entitled to process the following data concerning a user who is a natural person:

- 1) surnames and first names;
- 2) parents' first names;
- 3) place and date of birth;
- 4) address of permanent registration;
- 5) personal number (PESEL) – in the case of a citizen of the Republic of Poland;
- 6) name, series and number of a document confirming the identity, and in the case of a foreigner being a citizen of a country which is not a member of the European Union or the European Economic Area – passport or card of residence number;
- 7) data included in documents confirming the ability to realize the obligation towards the Provider of publicly available telecommunications services resulting from the telecommunications services provision agreement.

3. Other than the data referred to in Paragraph 2, the Provider of publicly available telecommunications services may, with the consent of a user who is a natural person, process other data from this user in relation to the provided service, in particular the tax identity number NIP, bank account or payment card number, user address for correspondence, in the event of it being different to the permanent registration address of this user, as well as the electronic mail address and contact telephone numbers.

Article 162. 1. The telecommunications undertaking is responsible for the violation of the telecommunications confidentiality by entities operating in the name and on behalf of the telecommunications undertaking.

2. The telecommunications undertaking providing a service to the end user of another telecommunications undertaking is entitled, in the necessary scope, to receive, transfer and process data concerning this end user, as well as data with regard to telecommunications services realized in his favour.

Article 163. The Provider of publicly available telecommunications services shall inform the subscriber it concludes a telecommunications services provision agreement with, as well as remaining end users, of the nature of the scope and purpose of processing transmission data and other data concerning the subscriber or end users, as well as the possibility of influencing the scope of this processing.

Article 164. 1. End user data may be processed during the period within which the agreement remains in force and after termination, during the period of vindication of claims or the performing of other tasks provided for in the Act or separate regulations.

Article 165. 1. The operator of a public telecommunications network or the Provider of publicly available telecommunications services which processes transmission data concerning subscribers and end users is obliged, owing to the performing by authorized bodies of national defence and security and public safety and order related tasks and duties, to store this data for 12 months. After this time, the transmission data is deleted or anonymized by the operator of a public telecommunications network or the Provider of publicly available telecommunications services which stores it.

2. The processing of transmission data necessary for charging subscriber fees and inter-operator clearings is permissible:

- 1) after the prior notification of the event to the subscriber or end user with regard to the type of transmission data that is to be processed by the Provider of publicly available telecommunications services, and with regard to the scope of this processing;
- 2) until the end of the period referred to in Article 108 (2) only.

3. The Provider of publicly available telecommunications services shall inform the subscriber or end user with regard to the type of transmission data which is to be processed, as well as with regard to the period of this processing for marketing telecommunications services or providing value added services.

4. The Provider of a publicly available telecommunications service may process the transmission data referred to in Paragraph 3 in the scope and period necessary for marketing telecommunications services or providing value added services, in the event of the subscriber or end user consenting to it.

5. Entities authorized to charge fees by the public telecommunications network operators and Providers of publicly available telecommunications services to manage telecommunications network traffic, perform customer support, manage the financial abuse detection system, telecommunications services marketing or to provide value added services, are entitled to process the transmission data under Paragraphs 1-4. These entities may process transmission data only in the event of it being necessary to the performance of the aforementioned actions.

Article 166. 1. In order to use location data, the Provider of publicly available telecommunications services shall:

- 1) receive the consent of the subscriber or end-user consent to process location data concerning this subscriber or end-user, which may be revoked for a given period or in

relation to a given connection, with the exception of Article 174, or

2) perform the anonymization of this data.

2. The provider of publicly available telecommunications services shall inform the subscriber or end-user, prior to receiving his consent, with regard to the type of location data which is to be processed, with regard to the goals and time of its processing, and whether this data is to be passed on to another entity in order to provide a value added service.

3. The following entities are entitled to process the data referred to in Paragraph 1:

- 1) those authorized by a public telecommunications network operator;
- 2) those authorized by a Provider of publicly available telecommunications services;
- 3) those providing a value added service.

4. Location data may be processed only in the event of it being necessary to provide value added services.

5. The data referred to in Paragraph 1 is made available on demand to the entities competent for national defence, security and public safety and order, in the scope and under the conditions specified in separate regulations.

Article 167. Entities operating in the name and on behalf of a telecommunications undertaking may join an ongoing connection, in the event of it being necessary to remove a failure, disturbance or is otherwise related to telecommunications network maintenance or telecommunications service provision, provided that the connection participants are informed with regard to it.

Article 168. 1. The Provider of publicly available telecommunications services shall record data with regard to realized telecommunications services in the scope which allows it to determine the amount due for realizing these services as well as to consider a complaint.

2. The Provider of publicly available telecommunications services stores the data referred to in Paragraph 1 for at least 12 months, and in the event of a complaint being filed, for the time necessary to settle the dispute.

Article 169. 1. Personal data included in a publicly available directory, hereinafter called the “directory”, issued in printed or electronic form, as well as made available via the information services of a telecommunications undertaking should be limited to:

- 1) a subscriber number or identification sign;
- 2) subscriber surname and first names;
- 3) the name of the city and street of the network termination point location in the case of a fixed public telephone network, or the place of permanent registration of the subscriber in the case of a mobile public telephone network.

2. Subscribers, before their data is included in the directory, are informed free of charge with regard to the purpose of the directory or telephone directory enquiry, where their personal data is to be stored, as well as with regard to the possibility of using the directory via search functions available in its electronic form.
3. The inclusion of data in the directory which identifies a subscriber who is a natural person may occur only upon the prior consent of the subscriber.
4. The broadening of the range of data referred to in Paragraph 1 requires subscriber consent.
5. The telecommunications undertaking shall make available the information referred to in Paragraph 1 (1)-(3), upon the demand of services appointed by law to handle calls routed to alarm numbers, supplemented by a subscriber calling the alarm number location possessed by the telecommunications undertaking, allowing immediate intervention.
6. Making available identifying data of subscribers other than referred to in Paragraph 3 in the directory or via telephone directory enquiry will not violate the legitimate interest of these entities.
7. The telecommunications undertaking shall protect directories issued in an electronic form from using the data included in these directories inconsistently with its purpose.
8. The telecommunications undertaking shall inform the subscriber with regard to the passing on of his data to other undertakings for the purpose of publishing the directory or providing a telephone directory enquiry.

Article 170. The telecommunications undertaking is entitled to provide subscriber number information or to entrust this activity to another entity preserving any and all conditions and limitations provided for by the provisions of this chapter.

Article 171. 1. The operator of a public telephone network provides end-users with the possibility of presenting the identification of the network termination point initiating the connection, hereinafter called the “calling line identification presentation”, before realizing the connection.

2. The Provider of services provided in a public telephone network which allows calling line identification presentation shall provide, using simple means:

- 1) to the calling end-user – the possibility to eliminate calling line identification presentation of the end user called during calling and during connection;
- 2) to the calling subscriber – the possibility to eliminate calling line identification presentation of the end user called during calling and during connection, or permanently at the operator of the network the subscriber which is a party to an agreement with the service Provider;
- 3) to the subscriber called – the possibility to eliminate calling line identification presentation for incoming connections in the event of it being technically possible, and in the event of such presentation being available before commencing the incoming

connection, the possibility to block incoming connections from a subscriber or end user which uses the elimination of calling line identification presentation.

3. The Provider of services provided in a public telephone network which provides identification of the network termination point to which the connection is routed, hereinafter called the “called line identification presentation”, shall provide the subscriber called with the possibility to eliminate called line identification presentation at the calling end user.

4. The Provider of services provided in a public telephone network which provides automatic call routing shall provide the subscriber with the possibility to block, using simple means, the automatic routing of calls to this subscriber’s terminal equipment by a third party.

5. The Provider of services provided in a public telephone network shall inform the subscribers that the network used to provide these services allows calling or called line identification presentations, as well as with regard to the possibilities referred to in Paragraphs 2-4.

6. The subscriber may not be charged any fee for using the possibilities of elimination or blocking referred to in Paragraphs 2-4.

7. Called line identification presentation elimination may be cancelled:

- 1) on the demand of authorities appointed by law to provide assistance, as well as entities competent for national defence, security and public safety and order issues, in the scope and under conditions specified in separate regulations;
- 2) by the service Provider ensuring connection to a public telephone network, or the operator of the network to which the subscriber is connected, on the motion of the subscriber, in the event of the applicant giving the appearance of verisimilitude to the fact that bothersome connections or connections containing threats are routed to his terminal equipment, for the purpose of identifying the numbers of end users calling this subscriber.

8. The operators of a public telephone network shall provide services designated by law to provide assistance with access to calling line identification as well as location related data, without the prior consent of the subscribers or end-users in question, in the event of it being necessary to allow these services to perform their tasks in the most effective manner.

9. Calling user identification data are recorded by the operator in the cases referred to in Paragraph 7 on the demand:

- 1) of the services and authorities referred to in Paragraph 7 (1);
- 2) of the subscriber referred to in Paragraph 7 (2);

10. Data referred to in Paragraph 7 remain at the disposal of the operator who makes them available to entities referred to in Article 179 (2) which perform tasks in aid of national defence, security and public safety and order, in the scope and on conditions specified in separate regulations.

11. The end user that bears costs of incoming connections may not receive data allowing complete calling number identification.

12. The President of the URTiP, on a reasonable motion from the operator, may, by means of an administrative decision, establish a transition period for the implementation of the incoming connection blockade of connections originating from a subscriber or user using the calling line identification presentation elimination referred to in Paragraph 2 (3). The President of the URTiP will notify the Minister of National Defence, the Minister competent for public finances, the Minister competent for internal affairs, the Head of the Internal Security Agency and the Head of the Foreign Intelligence Agency with regard to the establishing of such a transition period.

Article 172. 1. The use of automated calling systems for direct marketing is forbidden, unless the subscriber or end user gives prior consent to do so.

2. The provision of Paragraph 1 does not violate bans and limitations concerning the transfer of unsolicited commercial information resulting from separate acts.

Article 173. 1. Entities providing services by electronic means may store electronic data, text files in particular, on subscriber or end-user terminal equipment meant for using these services, provided that:

- 1) the subscriber or end-user is unambiguously informed, in an easy and comprehensible manner, with regard to the purpose of storing this data and the manner of using its contents;
- 2) the subscriber or end-user is unambiguously informed, in an easy and comprehensible manner, of how he may raise an objection, which will make it impossible in the future to store service Provider data on the equipment terminal of the subscriber or end-user;
- 3) the stored data do not cause configuration changes in the equipment of the subscriber or end-user, or software installed on this equipment.

2. The conditions referred to in Paragraph 1 are not applicable in the event of:

- 1) the storing of and access to data referred to in Paragraph 1 being necessary to realize or facilitate transmission of a message via a public network;
- 2) the storing of data referred to in Paragraph 1 being necessary to provide the service provided by electronic means, requested by the subscriber or end user.

3. Entities providing services by electronic means may install software on subscriber or end user terminal equipment meant for using these services or use this software, provided that the subscriber or end user:

- 1) is unambiguously informed, before the installation of the software, in an easy and comprehensible manner, with regard to the purpose of installing this software, and with regard to the manner in which the service providing entity uses this software;

- 2) is unambiguously informed, in an easy and comprehensible manner, with regard to the manner in which the software may be removed from the end-user or subscriber terminal equipment;
- 3) gives his consent for the installation and use of the software prior to its installation.

Article 174. In the event of the provisions of the Act requiring the express consent of a subscriber or end user, this consent:

- 1) may not be alleged or implied by a declaration of will of other content;
- 2) may be expressed by electronic means, on the condition of recording it and confirming it by the user;
- 3) may be cancelled at any time, in a simple manner and free of charge.

Article 175. 1. The provider of publicly available telecommunications services or the operator of a public telephone network shall undertake the technical and organizational means in order to ensure message transfer security in relation to the services provided by them.

2. The service Provider shall inform users, in the case of particular risk provided by service security violation in particular, or that the technical means employed by it do not guarantee message transfer security, as well as with regard to existing possibilities to undertake such security and costs related therewith.

PART VIII

National defence, security and public safety and order obligations

Article 176. 1. Telecommunications undertakings are obliged, in order to ensure the continued provision of telecommunications services, to take into consideration, while planning, constructing, developing, exploiting or connecting telecommunications networks, the possibility of particular threat situations, and, in particular, the introduction of a state of emergency.

2. Telecommunications undertakings are obliged, with the exception of Paragraph 4 (2), to possess a current plan of action in particular threat situations, hereinafter called the “plan”, concerning in particular:

- 1) mutual telecommunications undertaking cooperation;
- 2) telecommunications undertaking cooperation with authorities coordinating rescue actions, services appointed by law to provide assistance and with the entities referred to in Article 177 (1);
- 3) telecommunications undertaking cooperation with foreign telecommunications operators, and with those from neighbouring states in particular;

- 4) the preparation of indicated telecommunications network elements in order to provide telecommunications for the needs of the national security management system, including national defence;
- 5) the securing of public telecommunications networks and telecommunications equipment against disturbances, the effects of disasters and natural disasters and from unauthorized access;
- 6) the preserving of the continued provision of telecommunications services, particularly for services appointed by law to provide assistance;
- 7) the providing of telecommunications connections on preferential terms for entities referred to in Article 177 (1), according to specified priorities;
- 8) the manner of using material services provided for in the Act by telecommunications undertakings and individuals exploiting telecommunications equipment;
- 9) recording and reserve gathering.

3. President of the URTiP may, by means of an administrative decision, order a telecommunications undertaking to complete the plan or adapt actual status to a status consistent with the plan.

4. The Minister competent for communications, by mean of an ordinance:

- 1) will specify the procedure for preparing and updating the plan as well as its contents,
- 2) may specify the telecommunications undertakings which are not obliged to prepare the plan

- having considered the scope of the provided telecommunications services, as well as the requirements referred to in Paragraph 2.

Article 177. 1. Telecommunications undertakings undertake, in particular threat situations, the immediate action specified in the plan, in order to maintain or recreate telecommunications services provision, first and foremost for the authorities coordinating rescue actions and services appointed by law to provide assistance, as well as for other entities performing tasks in aid of national defence, security and public safety and order, and only then for remaining users.

2. The Minister competent for internal affairs, in agreement with the Minister of National Defence and the Minister competent for communications, upon obtaining the opinion of the Head of the Internal Security Agency and the Head of the Foreign Intelligence Agency, will specify, by means of an ordinance, the user categories and priorities referred to in Article 176 (2) (6) and (2) (7), as well as the procedure and rules for determining the sequence for the recreation of telecommunications services provision, having considered the possible threats and actions necessary to counteract their effects.

3. Telecommunications undertakings shall grant access to their telecommunications equipment necessary to carry out rescue action, to other telecommunications undertakings,

users and authorities, services and the entities referred to in Paragraph 1 free of charge, with the exception of the principle of minimization of negative effects of such equipment access on service provision continuance and for telecommunications undertaking economic activity.

4. The provisions of Paragraphs 1-3 also apply to individuals using transmitters or transceivers used in radio-communications services.

5. The provisions of Paragraphs 1-4 apply accordingly during rescue actions or during the alleviation of the effects of international disasters, at least in the scope defined in international agreements to which the Republic of Poland is a party.

Article 178. 1. In the event of a particular threat situation, the President of the URTiP may, by means of an administrative decision, impose on telecommunications undertaking obligations concerning:

- 1) the maintenance of continued telecommunications services provision, including telecommunications connection realization on preferential terms,
- 2) the limiting of some publicly available telecommunications services,
- 3) the limiting of the scope or area of telecommunications networks and telecommunications equipment exploitation, radio equipment use, excluding equipment used by entities referred to in Article 4,
- 4) the writ of free provision, in the specified scope, of publicly available telephone services from public pay-phones

- being motivated by the extent of the threat and the need to limit its effects, with the exception of the principle of the minimization of the negative effects of the imposed obligations on service provision continuance and for telecommunications undertaking economic activity. The decision is immediately enforceable.

2. The decision of the President of the URTiP to impose the limitations referred to in Paragraph 1 on telecommunications undertakings is issued ex officio or on the motion of a prosecutor, the Commander-in-Chief of the Police, the head of voivodship Police, the Commander-in-Chief of the Border Guard, the Commander-in-Chief of the Military Police, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency, the Head of the Military Information Services or the Head of the Government Protection Bureau.

3. In a particular threat situation, the authorities referred to in Paragraph 2 may make an administrative decision with regard to the use of equipment which prevents telephone connections via a mobile public telephone network in a given area, having informed the President of the URTiP with regard to the actions taken up.

Article 179. 1. Telecommunications undertakings shall perform tasks and duties in aid of nation defence, security and public safety and order in the scope and under the conditions specified in the Act and in separate regulations.

2. A telecommunications undertaking shall perform tasks and duties in the scope of preparation and maintenance of the indicated telecommunications network elements in order

to provide telecommunications for the needs of the national security management system, including national defence, realized in the rules specified in the plans, decisions or agreements concluded between telecommunications undertakings and authorized entities.

3. The tasks and duties referred to in Paragraph 1 concern the provision of a telecommunications undertaking's costs:

- 1) in particular, the technical and organizational conditions for simultaneous and mutually independent:
 - a) access to the indicated telecommunications message content and data referred to in Paragraph 9, Article 159 (1) and Article 161 remaining in the possession of the telecommunications undertaking and data related to the provided telecommunications service,
 - b) recording contents and data referred to in Subparagraph a).
 - by authorized organizational units subordinate to or supervised by the Minister of National Defence, or by authorized bodies and organizational units supervised by or subordinate to the Minister competent for internal affairs, the Minister competent for public finances and the Head of the Internal Security Agency and the Head of the Foreign Intelligence Agency;
- 2) recording content and data referred to in Paragraph 1 (a) in favour of the court or the prosecutor.

4. Access referred to in Paragraph 3 may also be realized via interfaces, under rules specified in agreements concluded between authorized entities and telecommunications undertakings with consent of: the Minister of Justice, the Minister of National Defence, the Minister competent for internal affairs, the Minister competent for public finances, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency, according to their competences. The agreement may also specify party participation in interface application costs.

5. The telecommunications undertaking ensures the completion of tasks and duties referred to in Paragraph 3, as of the day of telecommunications activity commencement.

6. The President of the URTiP in particularly justified cases may, on the motion of the interested telecommunications undertaking, postpone the time for the performing of the tasks and duties referred to in Paragraph 3.

7. A telecommunications undertaking which performs telecommunications activity via the telecommunications network of another telecommunications undertaking may commission this undertaking to perform the tasks and duties referred to in Paragraph 3. The commissioning of performing tasks and duties does not free the commissioning undertaking from liability for their proper realization.

8. The telecommunications undertaking shall indicate to the President of the URTiP within 60 days of the day the Act comes into force, or on the day of telecommunications services provision commencement, the following :

- 1) the organizational unit or individual with a seat or place of residence on the territory of the Republic of Poland which meets the requirements specified in the separate regulations entitled to represent the undertaking in cases associated with the performing of tasks and duties referred to in Paragraph 3;
- 2) the telecommunications undertaking which performs the tasks and duties referred to in Paragraph 3 in its name.

9. The telecommunications undertaking providing publicly available telecommunications services shall keep an electronic directory of subscribers, users or network termination points, which include data obtained at the conclusion of an agreement.

10. The President of the URTiP immediately transfers the information referred to in Paragraph 8 to the Minister of Justice, the Minister of National Defence, the Minister competent for internal affairs, the Minister competent for public finances and the Head of the Internal Security Agency and the Head of the Foreign Intelligence Agency.

11. The telecommunications undertaking shall ensure the performance of the tasks and duties referred to in Paragraph 3 from the moment it commences the provision of a new telecommunications service.

Article 180. 1. The telecommunications undertaking shall immediately block telecommunications connections or information transfers upon the demand of authorized entities, in the event of these connections posing a danger to national defence, security and public safety and order, or allowing these entities to make such a blockade.

2. The operator of a mobile public telephone network shall:

- 1) prevent the use of stolen telecommunications terminal equipment within its network;
- 2) transfer information identifying stolen telecommunications terminal equipment to other operators of mobile public telephone networks so as to enable the performance of actions referred to in Subparagraph 1.

3. The actions referred to in Paragraph 2 are performed by the operator within 1 working day of the day the subscriber provides confirmation of telecommunications terminal equipment theft, the equipment identification number and a proof of purchase or other data unambiguously identifying the owner of this equipment. In the case of receiving the information identifying the stolen equipment from another operator, the 1 working day period applies from the day of receiving this information.

Article 181. The Council of Ministers will specify, by means of an ordinance:

- 1) the requirements and the manner for the performing of the tasks and duties referred to in Article 179 (3), excluding cases regulated under Article 242 of the Code of Criminal Procedure, being motivated by the principle of accomplishing the goal with the lowest expenditure possible;

- 2) the conditions which must be met in order to grant the postponement referred to in Article 179 (6), the deadline for submitting the application and the maximum postponement time, being motivated by the need to perform tasks in aid of national defence, security and public safety and order;
- 3) the types of telecommunications activity or types of telecommunications undertaking not subject to the obligation to perform the tasks referred to in Article 179 (3), being motivated by the scope and type of realized telecommunications services or the extent of telecommunications networks.

Article 182. The Council of Ministers will specify, by means of an ordinance, the technical and exploitative requirements for interfaces allowing the performing of tasks and duties in aid of national defence, security and public safety and order referred to in Article 179 (3), being motivated by the requirements of European standardization organizations and, if no such requirements exist, by the requirements of other international standardization organizations of which the Republic of Poland is a member.

PART IX

Telecommunications fees

Article 183. 1. The telecommunications undertaking pays a yearly telecommunications fee associated with performing tasks in the scope of telecommunications by administrative bodies referred to in Article 189, including:

- 1) keeping a registry of telecommunications undertakings;
- 2) publishing administrative decisions, excluding decisions charging fees for which is provided for in separate regulations;
- 3) evaluation, verification and control of adequate product and telecommunications services markets;
- 4) settling disputes between telecommunications undertakings;
- 5) cooperation with Community and international institutions in the scope resulting from regulations of national and Community law currently in force and from concluded international agreements, as well as remaining tasks associated with functioning of the URTiP and the Minister competent for communications, excluding performing numbering and frequency resources management.

2. The amount of the fee referred to in Paragraph 1 cannot exceed 0,05 % of yearly telecommunications undertaking income from performed telecommunications activity, obtained in the financial year 2 years before the year for which this fee is due.

3. The telecommunications undertaking pays the fee referred to in Paragraph 1 after 2 years since the day performing of this activity has commenced.

4. The fee referred to in Paragraph 1 is paid by the telecommunications undertaking that has obtained income from performing telecommunications activity in the financial year 2 years before the year for which this fee is due higher than PLN 4 million.

5. The Minister competent for communications transfers to the President of URTiP a breakdown of costs associated with performing tasks referred to in Paragraph 1 born in the preceding year within 3 months since the end of a financial year.

6. The President of the URTiP publishes every year in the URTiP Bulletin a breakdown of costs associated with performing tasks referred to in Paragraph 1 born in the preceding year, as well as total income from the yearly telecommunications fee collected in the preceding year within 5 months since the end of the financial year.

7. The Minister competent for communications, in agreement with the Minister competent for public finances, will specify, by means of an ordinance, the amount, manner of fixing, deadlines and manners of paying, for the fee referred to in Paragraph 1, being motivated by:

- 1) the amount of expenses of the President of the URTiP and the Minister competent for communications associated with performing their tasks in the scope of telecommunications referred to in Paragraph 1, accepted in the budget act for the year preceding the year for which this fee is due;
- 2) the amount of telecommunications undertakings income from performing telecommunications activity in the year preceding the year for which this fee is due by 2 years;
- 3) the need to compensate the amount of income from this fee in the preceding year and the amount of costs referred to in Paragraph 6.

Article 184. 1. The entity that received the right to use numbering resources in numbering allocation pays yearly fees for the right to use numbering resources.

2. The fees referred to in Paragraph 1 cannot be higher than:

- 1) for a subscriber number – PLN 0,35;
- 2) for an AB telecommunications network indication granted to an entity performing telecommunications activity – PLN 180 000;
- 3) for a public mobile telephone network indication (PLMN) – PLN 1 800 000;
- 4) for a network access number (NDS) – PLN 60 000;
- 5) for a 118CDU number – PLN 60 000;
- 6) for a teleinformatic network access number (NDSI) – PLN 550;
- 7) for an area number for special subscriber services for each Numbering Plan Area where this number can be used – PLN 1 600; this fee is not charged for emergency

numbers that are free for the subscribers to connect with;

- 8) for a national intelligent network number – PLN 28;
- 9) for a DNIC+PNIC number in a data transmission network with packet switching – PLN 36 000;
- 10) for a signalization point number – PLN 12 000;
- 11) for a closed user group (CUG) number; for every 8 CUG numbers – PLN 55;
- 12) for a mobile network code (MNC) – PLN 1 200;
- 13) for an ATM network code – PLN 1 200;

3. The obligation for paying fees for the right to use the numbering resources ceases not later than 30 days after submitting an application for revocation of this numbering allocation.

4. The Minister competent for communications, in agreement with the Minister competent for public finances, will specify, by means of an ordinance, the amount, deadlines and manner of paying, for the fees referred to in Paragraph 1, having considered the amounts specified in Paragraph 2, the conditions for using numbering resources, being motivated by the costs of numbering resources management realization, as well as the by need to guarantee an optimal utilization of numbering resources.

Article 185. 1. The entity that has received the right to have a frequency in a spectrum right on its disposal pays yearly fees for the right to use this frequency.

2. The fee referred to in Paragraph 1 does not concern an entity providing a service for another entity using a frequency this entity has at its disposal basing on a spectrum right referred to in Article 114 (2) (2).

3. An entity that does not have a frequency realization that has received the right to utilize a frequency in a licence, pays a yearly fee referred to in Paragraph 1.

4. The entity in favour of which a spectrum right has been granted by means of the procedure referred to in Article 116 pay a onetime fee for granting the spectrum right in an amount declared in this procedure, not higher than 50 % of the yearly fee for the right to have the frequency at its disposal specified according to conditions provided for in the spectrum right.

5. Fees referred to in Paragraph 1 cannot be higher than:

- 1) in mobile land radio-communications:
 - a) for the right to have one radio channel in the telecommunications network at one's disposal – PLN 24 000,
 - b) for the right to have one duplex radio channel in a public mobile telephone network of cellular structure at one's disposal – PLN 3 000 000;

2) in fixed land radio-communications:

- a) in the frequency band below 30 MHz, for the right to have one 4kHz wide radio channel at one's disposal – PLN 8 000,
- b) for point to point (PP) systems:
 - for the right to have one radio channel in one radio relay hop at one's disposal – PLN 400 000,
 - for the right to have one radio channel in mobile radiolines at one's disposal, in the case of lines meant for emergency or temporary communications – PLN 100 000, and in remaining cases – PLN 300 000,
- c) for point to multipoint (PMP) systems for the right to have a frequency at one's disposal on the area of each commune, for every 1 MHz of the utilized frequency spectrum – PLN 250,
- d) for subscriber radio access systems (SRDA):
 - for the right to have a frequency at one's disposal in an RSLA line – PLN 200,
 - for the right to have a frequency at one's disposal for each DECT or CT2 network – PLN 1 200,
 - for the right to have a frequency at one's disposal for each commune, for other subscriber radio access systems for each 1 MHz of the band – PLN 200,
- e) for systems according to licences referred to in Article 227 (2) and according to licences that will be issued by the URTiP since 31 December 2004:
 - for the right to utilize a frequency by every base or relay station in point to multipoint (PMP) type radiolines, used in fixed networks of a cellular structure, for each 1 MHz of the utilized frequency spectrum – PLN 800,
 - for the right to utilize a frequency by every base or relay station operating within the confines of a subscriber radio access with a spread spectrum (SS), for every 1 MHz of the utilized band – PLN 800;

3) in satellite radio-communications:

- a) for the right to have a frequency at disposal of each fixed earth satellite station operating within a fixed satellite service disposal – PLN 14 500,

- b) for the right to have a frequency at one's disposal in a fixed satellite service used for sending Earth – satellite radiodiffusion signals, realized with a single fixed earth satellite station, for every 10 kHz of the utilized frequency spectrum – PLN 130,
 - c) for the right to have a frequency in satellite radio-communications service at one's disposal in one earth satellite station operating in a VSAT network:
 - for the central station managing the terminal stations network and for a terminal station performing network control functions, for every 1 kHz of the utilized frequency spectrum – PLN 130,
 - for an ordinary terminal station – PLN 130,
 - d) for the right to have a frequency at disposal of one fixed earth satellite station utilized by a budget unit for the sole purpose of training – PLN 2 400;
- 4) in maritime and inland navigation radio-communications and in air radio-communications service:
 - a) for the right to have one radio channel in air radio-communications in the 117,975 – 137,000 MHz frequency band at disposal of one airport station in Earth – aircraft communications – PLN 1 000,
 - b) for the right to have one frequency in radionavigation and radiolocation systems at one's disposal – PLN 600,
 - c) for the right to have one 30,3 kHz wide radio channel at disposal of a earth station operating within the confines of a Terrestrial Flight Telephone System (TFTS) – PLN 1 200,
 - d) for the right to have a frequency in maritime or inland navigation at disposal of each coastal station in coast – ship communications:
 - for one channel in maritime VHF ultra-high frequency band – PLN 1 000,
 - for one band outside the maritime VHF ultra-high frequency band – PLN 6 000,
 - e) for the right to have one radio channel in maritime and inland navigation radio-communications in the VHF ultra-high frequency band at one's disposal for each mobile station in coast – ship communications not operating on the basis of a ship licence – PLN 800;
- 5) in the radio:
 - a) for the right to have one frequency at disposal of one radio station in the VHF FM ultra-high frequency band (87,5 – 108 MHz) – PLN 44 000,

- b) for the right to have one frequency at disposal of one radio station in the low frequency band (30 – 300 kHz) – PLN 20 000,
- c) for the right to have one frequency at disposal of one radio station in the medium frequency band (300 – 3 000 kHz) – PLN 4 000,
- d) for the right to have one frequency at disposal of one radio station in the high frequency band (3 – 30 MHz) – PLN 8 000,
- e) for the right to have one frequency at disposal of one radio station operating according to the T-DAB terrestrial digital radio standard – PLN 2 400;

6) in the television:

- a) for the right to have one TV channel at disposal of one analogue TV station – PLN 99 000,
- b) for the right to have one TV channel at disposal of one TV station operating according to the DVB-T terrestrial digital TV standard – PLN 4 800.

6. Fee limits referred to in Paragraph 5 are cut by 50 % in the case of:

- 1) radio and TV broadcasting stations, except for stations with radiation power above 0,1kW, located in administrative areas of cities over 100 000 inhabitants or in areas within 20 km from the centre of an administrative area of a city over 100 000 inhabitants;
- 2) transmitter or transceiver radio-communications stations, except for stations located in administrative areas of cities over 100 000 inhabitants;
- 3) terrestrial radio-communications meant for the sole purpose of providing first aid and saving human life and health by health service units;
- 4) running operations by organizational units, whose statutory obligation is planning, running and participating in disasters and natural disasters effects preventing and alleviating operations;
- 5) operators of nationwide terrestrial mobile radio-communications networks of a uniform operation structure in the country's territory;
- 6) conducting research, performing experiments and for providing occasional information transfer.

7. Fees for the right to have a frequency at one's disposal are not charged:

- 1) in maritime radio-communications service in the VHF maritime band:
 - a) in channel 16 (156,800 MHz),

- b) in channel 70 (156,525 MHz);
- 2) in maritime and inland navigation radio-communications service – if used by naval units, in ship – coast and coast – ship communications relation;
- 3) in air radio-communications service:
 - a) for emergency frequencies: 121,5 MHz, 123,1 MHz, 243 MHz,
 - b) if used by aircraft in aircraft – Earth and aircraft – aircraft communications relation;
- 4) in amateur radio-communications service in the frequency bands allocated in the National Frequency Allocation Table:
 - a) for amateur service,
 - b) in the CB citizen band – (26,960 – 27,410 MHz).

8. Entities referred to in Article 4 (1), (2), (4), (5), (7) and (8) pay fees for the right to have a frequency at their disposal: The fee for having a frequency at disposal of foreign armed forces units temporarily staying on the territory of the Republic of Poland under separate regulations is included in the lump fee for the right to have a frequency at one's disposal paid by the Minister of National Defence.

9. The obligation to pay fees for the right to have a frequency at one's disposal ceases not later than in 30 days since the day an application of giving up the right to utilize a frequency or the right to have a frequency at one's disposal has been submitted.

10. In the case of losing the right to have a frequency at one's disposal as an effect of spectrum right revocation, the fees paid are not subject to a refund.

11. The Council of Ministers will specify, by means of an ordinance, the amount of fees referred to in Paragraph 1, as well as deadlines and the manner in which they will be paid, having considered the amounts specified in Paragraph 5, frequency utilization conditions, and frequency management realization costs, as well as the need to guarantee optimal frequency resources utilization.

12. The Council of Ministers will specify, by means of an ordinance, the amount, deadlines and manners for paying, for the fees referred to in Paragraph 8, having considered the specificity of frequency utilization by entities referred to in Article 4 (1), (2), (4), (5), (7) and (8).

Article 186. Fees referred to in Articles 183-185 are collected by the URTiP and are income of the national budget.

Article 187. Regulations about executive proceedings in administration in the scope of monetary obligations execution apply to the fees referred to in Articles 183-185.

Article 188. In the case of a delay in paying the fees referred to in Articles 183-185, interest is accrued in the same amount as for tax arrears as provided by the Tax Code of 29 August 1997 (Journal of Laws No. 137, item 926, with subsequent amendments⁸).

PART X

National Regulatory Authorities and control procedure

Chapter 1

National Regulatory Authorities

Article 189. 1. The National Regulatory Authorities are the Minister competent for communications and the President of the URTiP.

2. The National Regulatory Authorities carry out the regulation policy, aiming in particular:

- 1) at supporting competition in the scope of providing telecommunications networks, associated facilities or telecommunications services provision, including:
 - a) ensuring that users, including disabled users, derive maximum benefit in terms of prices, choice of service and quality,
 - b) ensuring that there is no distortion or restriction of competition (on the telecommunications market),
 - c) efficient investment in infrastructure and promoting innovative technologies ,
 - d) supporting efficient use and management of radio frequencies and numbering resources
- 2) at supporting internal market development, including:
 - a) the removal of existing market barriers with regard to telecommunications activity,
 - b) supporting the establishment and development of Trans-European networks and the interoperability of Europe-wide services,
 - c) ensuring the equal treatment (no discrimination in treatment) of telecommunications undertakings,

⁸ Amendments to the Act aforementioned have been announced in the Journal of Laws of 1997 No. 160, item 1083, of 1998 No. 106, item 668, of 1999 No. 11, item 95 and No. 92, item 1062, of 2000 No. 94, item 1037, No. 116, item 1216, No. 120, item 1268 and No. 122, item 1315, of 2001 No. 16, item 166, No. 39, item 459, No. 42, item 475, No. 110, item 1189, No. 125, item 1368 and No. 130, item 1452, of 2002 No. 89, item 804, No. 113, item 984, No. 153, item 1271 and No. 169, item 1387, of 2003 No. 130, item 1188, No. 137, item 1302, No. 170, item 1660 and No. 228, item 2225 and 2256 and of 2004 No. 29, item 257, No. 64, item 593, No. 68, item 623, No. 91, item 868, No. 93, item 894, No. 116, item 1205, No. 122, item 1288, No. 123, item 1291, No. 146, item 1546 and No. 162, item 1692.

- d) co-operation with other regulatory authorities of the Member States and the European Commission, in order to implement and apply regulations consistently;
- 3) at promoting the interests of European Union citizens, including:
- a) ensuring all citizens have access to a universal service,
 - b) ensuring the customer protection in consumer – telecommunications undertaking relations, in particular by creating simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved,
 - c) contributing to ensuring a high level of personal data protection,
 - d) making available of information concerning tariffs and the conditions for using of publicly available telecommunications services,
 - e) identifying the needs of certain social groups, particularly of disabled users,
 - f) ensuring the integrity and security of a public telecommunications network;
- 4) at carrying out policy in the scope of promoting cultural and language diversity, as well as media pluralism;
- 5) at guaranteeing of making regulations technologically neutral .

Article 190. 1. The President of the URTiP is a regulation body in the domain of the telecommunications and postal services market.

2. The President of the URTiP is a specialized body under the Conformity Assessment System Act of 30 August 2002 in the scope of apparatus, including telecommunications terminal equipment and radio equipment.

3. The President of the URTiP is a central body of government administration.

4. The President of the URTiP is appointed by the Prime Minister on the motion of the Minister competent for communications . The President of the URTiP is recalled by the Prime Minister. The tenure of the President of the URTiP is for five years.

5. Only a person with Polish citizenship, permanently residing on the territory of the Republic of Poland, having completed a higher education and with experience in the field of telecommunications or postal service may be appointed President of the URTiP or its deputy.

6. The President of the URTiP may be recalled prior to the end of his tenure only in the event of:

- 1) gross violation of the Act;

- 2) a ruling which forbids the taking of managerial posts or being in charge of functions associated with particular responsibility in state bodies;
- 3) the committing of an officially prosecuted crime of intentional guilt, ascertained by a legally valid sentence of the court;
- 4) illness which permanently prevents the performing of duties;
- 5) the tendering of a resignation.

7. In the event of the President of the URTiP being recalled prior to the end of his tenure, the Prime Minister appoints his successor for the period until the end of this tenure.

8. The Minister competent for communications , upon the motion of the President of the URTiP, appoints deputies to the President of the URTiP for telecommunications and postal issues. Deputies to the President of the URTiP are recalled by the Minister competent for communications.

9. The President of the URTiP is an executive body in the scope of the administrative execution of non-monetary obligations.

Article 191. 1. The President of the URTiP publishes the Official Journal of the Office of Telecommunications and Post Regulation.

2. In particular, the following are announced in the official journal referred to in Paragraph 1:

- 1) regulations;
- 2) resolutions and opinions of the Telecommunications Council and the Postal Services Council;
- 3) international regulations;
- 4) notices, announcements and communications.

Article 192. 1. The scope of activity of the President of the URTiP includes, in particular:

- 1) the performing of the tasks provided for in the Act and the regulations issued on its basis in the scope of telecommunications services markets regulation and control, the management of frequency resources, orbital resources and numbering resources and control of meeting requirements concerning electromagnetic compatibility;
- 2) the performing of tasks in the scope of postal activity regulation, provided for in the Postal Law of 12 June 2003 (Journal of Laws No. 130, item 1188 and of 2003 No. 69, item 627 and No. 96, item 959);
- 3) the preparation of drafts of legal acts with regard to communications indicated by the Minister competent for communications;

- 4) the analysis and evaluation of telecommunications and postal services markets functioning;
- 5) the initiation of interventions in issues concerning the functioning of the telecommunications and postal services markets and the apparatus market, including the telecommunications equipment market, on his own initiative or on submission by interested entities, in particular by users and telecommunications undertakings, including the making of decisions on these issues in the scope specified in the Act;
- 6) the settling of disputes between telecommunications undertakings within competencies of the President of the URTiP;
- 7) the making of decisions on the issues of professional qualifications in the field of telecommunications, as specified in separate regulations;
- 8) the creation of conditions for national radio-communications services development through the securing of the necessary frequency allocations and access to orbital resources for the Republic of Poland;
- 9) the performing of duties in support of national defence, security and public safety and order;
- 10) the keeping of registers in the scope provided for in the Act;
- 11) co-ordination of spectrum right in spectrum bands allocated to entities referred to in Article 4, in particular in spectrum bands vacated by these entities or those newly made available to them or used together with other users;
- 12) the initiation and support of Research and Development (R&D) in the scope of communications;
- 13) co-operation with domestic and international telecommunications and postal organizations and with proper foreign authorities, in the scope of their competence;
- 14) co-operation with the President of the UOKiK on issues concerning the abidance with the rights of entities using postal and telecommunications services, the counteracting of competition-limiting practices (restrictions of competition) and anticompetitive concentrations of postal operators, telecommunications undertakings and their associations;
- 15) co-operation with the National Broadcasting Council in the scope provided for in the Act and in separate regulations;
- 16) the performing of tasks within international and community telecommunications policy issues under the authorization of the Minister competent for communications;
- 17) co-operation with the European Commission and community institutions, as well as with the regulatory authorities of other Member States;

- 18) providing the European Commission and the regulatory authorities of other states with information in the scope of telecommunications, including the performing of notification duties, encompassing transferring contents of the decisions referred to in Article 23 (3) and information with regard to telecommunications undertakings recognized as having significant market power, providing the universal service and providing interconnection, as well as with regard to obligations imposed upon them;
- 19) the carrying out environmental consultations with interested entities, in particular with operators, service Providers, users, consumers and manufacturers, on issues associated with availability and quality of telecommunications services ;
- 20) providing the European Commission with information in the scope of postal services, including data concerning the operator providing universal postal services, information with regard to the manner of making available to users of universal postal services the detailed and current information concerning the character of offered services, the access conditions, prices and the delivery punctuality rates, information with regard to the cost calculation system employed by the operator providing universal postal services, and on the request of the European Commission, information with regard to the delivery punctuality rates assumed for universal postal services in domestic trade.

2. The President of the URTiP annually submits to the Minister competent for communications , written reports of his activity during the preceding year, not later than the 30th of April, and provides information with regard to his activity upon the request of this Minister.

3. The President of the URTiP, on the basis of information acquired from telecommunications undertakings and not later than the 30th of April, announces a report on the condition of the telecommunications market for the preceding year, including the activities in aid of the protection of the interests of telecommunications, and presents the goals for regulation activity for the current year. The report is published in the URTiP Bulletin and on the URTiP web site.

Article 193. 1. The President of the URTiP performs tasks with support of the URTiP.

2. The URTiP runs its financial economy on the rules specified for budget units.

3. The Minister competent for communications , by means of an ordinance, issues the statute of the URTiP, specifying its organizational units.

Article 194. 1. The URTiP consists of regional URTiP departments.

2. The URTiP statute specifies the seats of regional URTiP departments, their *ratione materiae* and *ratione loci* competence, having taken into consideration the fundamental territorial division of the state.

3. The regional URTiP department is directed by a regional URTiP department director.

4. Regional URTiP department directors are appointed and recalled by the President of the URTiP.

Article 195. 1. The Telecommunications Council functions as a consultative and advisory body to the President of the URTiP on issues concerning telecommunications activity, frequency management and the meeting of requirements concerning electromagnetic compatibility.

2. The Telecommunications Council expresses opinions on issues submitted by the Minister competent for communications and the President of the URTiP. The Council may, on its own initiative, present opinions on issues remaining within the competence of the President of the URTiP, excluding issues concerning the performing of duties in support of national defence and security and public safety and on the order of the President of the URTiP.

3. The President of the URTiP seeks the opinion of the Telecommunications Council on issues associated with:

- 1) the ensuring of access to the universal service;
- 2) the quality of the universal service provision;
- 3) the determination of the rules for interconnection and the associated operator co-operation.

4. The Telecommunications Council contains 15 members appointed by the Minister competent for communications upon the motion of the President of the URTiP. The members of the Telecommunications Council are recalled by the Minister competent for communications.

5. The Minister competent for communications appoints to the Telecommunications Council, in particular :

- 1) his representative and one representative of the Minister of National Defence, the Minister competent for internal affairs, the Chairman of the KRRiT, the Head of the Foreign Intelligence Agency, the Head of the Internal Security Agency and the President of the UOKiK, proposed by these bodies;
- 2) individuals with outstanding knowledge and experience of the issues subject to the activity of the Council, including individuals proposed by environmental organizations, research institutions, research units, and organizations representing operators or users, entities providing telecommunications services, telecommunications equipment manufacturers or providers and entities associated with telecommunications construction.

6. The Chairman of the Telecommunications Council is appointed and recalled by the Minister competent for communications from among the members of the Telecommunications Council, upon the motion of the President of the URTiP.

7. The tenure of the Telecommunications Council ends with the end of the tenure of the President of the URTiP.

Article 196. 1. The organization and working mode of the Telecommunications Council is specified in the operation regulations passed by the Council.

2. Support for the Telecommunications Council is provided by the President of the URTiP.

3. Members of the Telecommunications Council receive remuneration for participating in Council related work, as well as the reimbursement of costs according to rules valid at the time the amount due to the employees for official trips is determined.

4. Employers shall relieve an employee of his duties in order for him to perform the tasks of a member of the Telecommunications Council.

5. The Minister competent for communications will specify, by means of an ordinance, the amount of remuneration for participating in Telecommunications Council work, particularly considering the range duties of Council members.

Article 197. 1. The Postal Services Council, hereinafter called the “Council”, functions as a consultative and advisory body to the President of the URTiP on issues concerning postal services.

2. The Council expresses opinions on issues submitted by the Minister competent for communications and the President of the URTiP. The Council may, on its own initiative, present opinions on issues which remain under the competence of the President of the URTiP, excluding issues concerning the performing of duties in support of national defence and security and public safety and on the order of the President of the URTiP.

3. The Council contains 9 members appointed by the Minister competent for communications upon the motion of the President of the URTiP. The members of the Council are recalled by the Minister competent for communications.

4. The Minister competent for communications appoints to the Council, in particular :

- 1) his representative and one representative of the President of the URTiP and of a public operator, proposed by them;
- 2) individuals with outstanding knowledge and experience in the scope of postal activity, from among the candidates proposed by organizations representing operators or entities using postal services, environmental organizations, research units, research institutions, as well as other organizations associated with postal activity.

5. The Minister competent for communications appoints and recalls the Chairman of the Council. The Chairman is appointed from among the members of the Council, upon the motion of the President of the URTiP.

6. The tenure of the Council ends with the end of the tenure of the President of the URTiP.

7. The provisions of Article 196 (1)-(4) apply to the Council accordingly.

8. The Minister competent for communications will specify, by means of an ordinance, the amount of remuneration for participating in Council work, particularly considering the range of duties of its members.

Article 198. 1. The President of the URTiP publishes the URTiP Bulletin.

2. The President of the URTiP includes the information and decisions required by the Act in the URTiP Bulletin, including:

- 1) recommendations concerning the utilization of standards or technical requirements;
- 2) annual reports with regard to the quality of the universal service provided by designated undertakings;
- 3) annual reports with regard to the situation on the telecommunications market and with regard to the protection of the interests of telecommunications users;
- 4) data concerning the results of cost calculations employed by telecommunications undertakings upon which such an obligation is imposed;
- 5) reports and cost calculation results, together with a report specifying their conformity with specified rules prepared by the entity conducting the research;
- 6) a list of telecommunications undertakings with significant market power and decisions in which obligations have been imposed upon them;
- 7) information concerning the rights and obligations of subscribers of publicly available telephone services, including the universal service;
- 8) information and announcements concerning the electromagnetic compatibility and frequency resources utilization;
- 9) publications which popularize communications issues.

Chapter 2

Control and post-control procedure

Article 199. 1. The President of the URTiP is entitled to control conformity with regulations, decisions and rulings concerning telecommunications, frequency management and the meeting of requirements concerning electromagnetic compatibility.

2. The President of the URTiP is entitled to control apparatus available on the market, including telecommunications terminal equipment and radio equipment.

3. The Minister competent for communications will, by means of an ordinance, specify the template of the official ID of URTiP employees, being motivated by the need to specify the range of data placed on the ID and its date of expiry.

Article 200. 1. Employees of the URTiP are entitled, upon the presentation of their official ID and a written licence, to:

- 1) access to materials, documents and other data necessary to carry out control, as well as make their copies;
- 2) access to all buildings and real property, as well as rooms in the controlled unit;
- 3) examine controlled telecommunications networks and apparatus;
- 4) secure from further use or take into possession radio equipment used without a required licence or operated by an unauthorized person;
- 5) the temporary seizure of apparatus in the course referred to in Article 204, in order to perform analysis aimed at determining the source of interference ;
- 6) collect free samples of marketed apparatus, including telecommunications terminal equipment and radio equipment, in order to perform analysis in the scope of the meeting of essential requirements by this apparatus;
- 7) carry out control and measurement actions, analysis of telecommunications networks, telecommunications equipment and other apparatus, as well as control the quality of provided telecommunications services.

2. Managers of the controlled units shall provide the URTiP employees referred to in Paragraph 1 with any and all required information and with:

- 1) the appropriate conditions for efficient realization of control;
- 2) access to the materials, documents, equipment, apparatus and network data referred to in Paragraph 1;
- 3) access to the buildings, real property and rooms referred to in Paragraph 1;
- 4) free access to controlled telecommunications networks, telecommunications equipment and other apparatus, in order to perform analysis.

3. The provisions of Paragraph 2 (1) and (2) apply accordingly to controlled physical persons.

4. The provisions of Articles 27-31 of the Trade Inspection Act of 15 December 2000 (Journal of Laws of 2001 No. 4, item 25, with subsequent amendments⁹) apply accordingly to the collection and analysis of apparatus samples in the scope of such apparatus meeting essential requirements.

5. The President of the URTiP may carry out control in co-operation with other national control authorities .

⁹ Changes to the aforementioned Act were announced in the Journal of Laws of 2001 No. 110, item 1189, of 2002 No. 135, item 1144 and No. 166, item 1360, of 2003 No. 223, item 2220 and No. 229, item 2275 and of 2004 No. 34, item 293.

6. Control actions may be carried out remotely. Remote measurement results should include data which allows the identification of control equipment. The provision of Paragraph 8 does not apply to remote control.

7. The control is documented in a control report signed by the employee carrying out the control.

8. The protocol referred to in Paragraph 7 is also signed by the manager of the controlled unit or an individual entitled by him or the controlled physical person.

9. Regulations concerning classified information protection and the telecommunications confidentiality apply to the control actions and analysis referred to in Paragraphs 1-5.

Article 201. 1. In the event of it being ascertained, during the control referred to in Article 199, that the telecommunications undertaking or the entity which possesses a spectrum right or numbering allocation, hereinafter called the “controlled entity”, does not fulfil the obligations imposed on it by the Act or an administrative decision issued by the President of the URTiP, the President of the URTiP issues post-control recommendations in which he calls upon the controlled entity to remove any irregularities or provide an explanation. The regularities should be removed, or explanations provided, within 30 days of the day the post-control recommendations are delivered to the telecommunications undertaking.

2. The President of the URTiP may specify, in the post-control recommendations referred to in Paragraph 1, a different period for the providing of explanations or the removal of irregularities. The period specified in the summons may be shorter than 30 days only on condition that the controlled entity which the summons concerns expressed its consent or that the violations indicated in the post-control recommendations have previously occurred.

3. If, after a period of 30 days from the delivery of the post-control recommendations, or after the period referred to in Paragraph 2, the controlled entity does not remove the indicated irregularities, or the explanation provided is insufficient, the President of the URTiP issues an administrative decision in which he orders the removal of the ascertained irregularity and may:

- 1) indicate the means the controlled entity should employ in order to remove the irregularity;
- 2) specify the time by which the irregularity is to be removed;
- 3) impose a penalty referred to in Article 209.

4. In the event of the irregularities referred to in Paragraph 1 having previously occurred and are of a serious nature, and in the event of the controlled entity not complying with the decision referred to in Paragraph 3, the President of the URTiP may, by means of an administrative decision, forbid the controlled entity from performing telecommunications activity, change or revoke the spectrum right or orbital resources, or numbering allocation. If the decision concerns activity consisting of making radio or TV transmissions or providing conditional access systems or electronic program guides, the President of the URTiP issues the said decision in agreement with the Chairman of the KRRiT.

5. The President of the URTiP may issue the decision referred to in Paragraph 4 in the event of the telecommunications activity posing a threat to national defence, security and public safety and order.

6. Prior to issuing the decision referred to in Paragraph 5, the President of the URTiP seeks the opinion of the Minister of National Defence, the Minister competent for internal affairs, the Head of the Internal Security Agency or the Head of the Foreign Intelligence Agency, within their competencies. In the event of the justification of the opinion of these authorities including information deemed to be a state secret, a notification that the justification has been drawn up is delivered instead of the justification itself.

7. The authorities referred to in Paragraph 6 shall assume their position within 30 days in a scope necessary to decide that the controlled entity activity may lead to a threat to national defence, security and public safety and order.

8. In the event of the authorities referred to in Paragraph 6 not assuming a position within 30 days, it is assumed that the requirement to obtain this position has been met.

9. The decisions referred to in Paragraphs 4 and 5 are immediately enforceable. These decisions are the basis for the removal of the controlled entity from the registry.

Article 202. 1. In the event of the President of the URTiP ascertaining, as a result of control referred to in Article 199, that the controlled entity violates obligations imposed upon him and is :

- 1) a direct and serious threat to national defence, security and public safety and order,
- 2) a potential cause of serious damage to user or other telecommunications undertaking property,
- 3) a potential cause of serious difficulties in telecommunications networks or telecommunications services functioning

- the President of the URTiP will take action aimed at removing such threats.

2. The actions referred to in Paragraph 1 may include, in particular, the issuing of an administrative decision ordering the controlled entity to take action aimed at removing the threat. This decision is immediately enforceable.

3. The controlled entity concerned by the actions referred to in Paragraph 1 may at any time present to the President of the URTiP its position and suggestions for actions aimed at removing violations resulting from the non-fulfilment of obligations referred to in Paragraph 1. During the undertaking of actions aimed at removing the threat, the President of the URTiP takes the position and suggestions submitted by the controlled entity into consideration.

4. The action referred to in Paragraph 1 may be taken by the President of the URTiP also on the motion of authorities competent for national defence, security and public safety and order issues. In the event of the justifications of the motion of these authorities including information deemed as being a state secret, a notification that the justifications has been drawn up is delivered instead of the justifications themselves.

5. Independently of the action referred to in Paragraph 1, the President of the URTiP initiates the procedure referred to in Article 201.

Article 203. 1. In the event of discovering that radio equipment is used without a required licence or operated by an unauthorized person, the President of the URTiP issues an administrative decision ordering the user of the equipment to discontinue using such equipment or to discontinue operating the radio equipment by an unauthorized person. This decision is immediately enforceable.

2. The decision referred to in Paragraph 1 may include a decision with regard to securing the radio equipment from further use or operation, or with regard to the taking into possession of this equipment.

3. The President of the URTiP may overrule the decision with regard to securing radio equipment issued in association with:

- 1) a lack of licence – with the day the licence is issued to the user, unless a court has ruled the forfeiture of the equipment;
- 2) its operation by an unauthorized person – immediately after being provided with documentation that the person operating the radio equipment possesses the required radio equipment operator certificate.

4. Radio equipment taken into possession due to:

- 1) lack of licence – is returned to the user after the licence is issued to him, unless a court has ruled the forfeiture of the equipment;
- 2) its operation by an authorized person – is returned to the user immediately after the providing of documentation that the person operating the radio equipment possesses the required radio equipment operator certificate.

Article 204. 1. In the event of discovering that an apparatus creating an electromagnetic field causes interference to the operation of other apparatus which meets the essential requirements concerning electromagnetic compatibility, the President of the URTiP may issue an administrative decision and order:

- 1) the temporary discontinuance of operation of the apparatus causing the interference ;
- 2) a change to the manner of using the apparatus;
- 3) the employment of technical means leading to disturbance elimination, at the expense of the entity on whom the decision has been issued;
- 4) the temporary seizure of the apparatus, in order to perform analysis necessary to ascertain the causes of the interference .

This decision is immediately enforceable.

2. The President of the URTiP may make the return of the seized apparatus dependant on the user consent to remove, at the expense of the user, the causes of this apparatus discrepancy with the essential requirements concerning electromagnetic compatibility and the causes of the interference in particular.

Article 205. 1. The provisions of Articles 200-204 do not apply to the entities referred to in Article 4 (1)-(6) and (8) which perform the tasks specified in separate regulations in their own capacity.

2. The Prime Minister will specify, by means of an ordinance, the courses of action in the event of discovering that an apparatus creating an electromagnetic field, used by the entities referred to in Article 4 (1)-(6) and (8), causes interference to the operation of other apparatus which meet the essential requirements concerning electromagnetic compatibility, having taken into consideration the nature of the tasks realized by these entities and the equitable interest of the user of the apparatus whose operation is interfered.

3. The Minister competent for communications, in agreement with the Minister of Justice, will specify, by means of an ordinance, the manner for realizing the provisions of Articles 200-204 in relation to Penitentiary Service organizational units, having taken into consideration the nature of the tasks realized by these units and the equitable interest of the user of the apparatus whose operation is interfered.

Chapter 3

Proceedings prior to the President of the URTiP

Article 206. 1. The proceedings prior to the President of the URTiP are run under the Code of Administrative Proceedings, with amendments resulting from the Act.

2. One may appeal against the decisions which concern the determination of significant market power, the imposition of regulation obligations, the imposition of penalties and against decisions issued in contentious cases to the Regional Court in Warsaw – the court for customer and competition protection.

3. The proceedings concerning the appeals referred to in Paragraph 2 are run under the Code of Civil Proceedings regulations which concern proceedings in economic cases.

Article 207. 1. In proceedings run under the Act, the President of the URTiP, by means of an administrative decision, may limit the right of remaining parties to inspect the evidence, if the making available of this evidence leads to the disclosure of company secret or other secrets protected by law.

2. The party applying for the imposition of such a limitation shall submit a version of the document which does not include information subject to the limitation and which is made available to the parties.

PART XI

Penal regulations and financial penalties

Article 208. 1. Any person who uses a transmitter or a transceiver without being in possession of the required licence, will be punished with fine, a restriction of liberty or imprisonment for a period of up to 2 years.

2. The court may rule the forfeiture of the equipment meant for or destined to commit the act referred to in Paragraph 1, even in the event of such equipment not being the property of the perpetrator.

3. The court rules the forfeiture of equipment meant for or destined to commit the act referred to in Paragraph 1, even in the event of such equipment not being the property of the perpetrator, if its use poses a threat to human life or health. The provision of Article 195 of the Punishment Execution Code is applied irrespective of the value of the property the forfeiture of which has been ruled.

Article 209. 1. Any person who:

- 1) fails to fulfil the obligation of providing information or submitting documents provided for in the Act,
- 2) performs telecommunications activity in a scope not included in the application for entry in the registry,
- 3) provides false or incomplete information referred to in Subparagraph 1,
- 4) violates the information obligations in relation to end users,
- 5) does not fulfil the obligations or requirements with regard to offers specifying the general outline of access agreement conditions,
- 6) does not fulfil the conditions of providing telecommunications access and settlements resulting thereof, as specified in the decision or the agreement,
- 7) does not fulfil the obligation to provide the universal service,
- 8) does not comply with the universal service provision availability and quality parameters specified by the President of the URTiP,
- 9) utilizes frequencies, numbering or orbital resources without necessary authorization or inconsistently with those authorizations,
- 10) does not fulfil or inappropriately fulfils the obligations or tasks in aid of national defence and security and public safety and order in the scope and on the conditions specified in the Act or in the decisions issued under the Act,
- 11) markets radio equipment without the required warning marking,
- 12) does not fulfil the obligations or requirements with regard to the provision of telecommunications access referred to in Article 32,

- 13) does not fulfil the regulation obligations imposed on retail markets referred to in Articles 46-48,
- 14) does not meet the requirements with regard to price fixing, referred to in Article 61 (2),
- 15) prevents subscribers from using their right to alter the assigned number, referred to in Article 69,
- 16) prevents subscribers from using their right to port the assigned number, referred to in Articles 71 and 71,
- 17) prevents subscribers from using their right to choose the service Provider, referred to in Article 72,
- 18) does not fulfil the obligation to provide free connections with emergency numbers, referred to in Article 77,
- 19) utilizes numbering inconsistent with its allocation, referred to in Article 126,
- 20) does not fulfil the obligations associated with the making available or keeping of separate accounting, referred to in Article 133,
- 21) does not fulfil the obligation to provide access to the application program interface or electronic program guide, referred to in Article 136,
- 22) does not fulfil the obligations or does not use the conditions for making the telecommunications infrastructure available, specified in a decision or an agreement, referred to in Article 139,
- 23) markets telecommunications equipment without the prior notification of the President of the URTiP, in the time and scope referred to in Article 155 (2),
- 24) violates the obligation to keep the telecommunications confidentiality, referred to in Article 159,
- 25) does not fulfil the obligations to acquire the consent of the subscriber or end-user, referred to in Articles 161, 166, 169 and 172-174,
- 26) processes data subject to the telecommunications confidentiality, subscriber data or end user data in a scope inconsistent with Article 165,
- 27) stores information on subscriber or end user terminal equipment or uses information stored on this equipment inconsistently with provisions of Article 173

- will be punished with a financial penalty.

2. Irrespective of the financial penalty referred to in Paragraph 1, the President of the URTiP may, in the cases specified in Paragraph 1 (1)-(8), (12)-(17), (19)-(22) and (24)-(27), impose on the telecommunications undertaking director a financial penalty of up to 300 % of his

monthly remuneration, calculated with consideration of the need for the equivalent of holiday leave.

3. Financial penalties are subject to execution in the course of administrative execution procedure regulations in the scope of the execution of pecuniary obligations.

Article 210. 1. The financial penalty referred to in Article 209 (1) is imposed by the President of the URTiP, by means of an administrative decision, to the amount of a maximum 3 % of the income of the punished entity, achieved in the preceding calendar year. The decision with regard to a financial penalty is not immediately enforceable.

2. In the course of determining the amount of the financial penalty, the President of the URTiP takes into consideration the scope of the violation, the past record of the entity and its financial potential.

3. The entity shall provide the President of the URTiP, upon every request from the President of the URTiP and within 30 days of the date of receiving the request, with the data necessary to determine the grounds for financial penalty assessment. In the event of the non-provision of this, or in the event of the data provided making it impossible to determine the grounds for penalty assessment, the President of the URTiP may estimate the grounds for financial penalty assessment. However, it may not be less than :

1) the amount of remuneration referred to in Article 196 (5) – in the case of the penalty referred to in Article 209 (2);

2) the amount of PLN 500 thousand – in remaining cases.

4. For entities operating for a period of less than one calendar year, the amount of PLN 500 thousand is assumed as the grounds for financial penalty assessment.

5. The penalty is treated as income for the national budget.

PART XII

Amendments to binding provisions, the transitory and final provisions

Chapter 1

Amendments to binding provisions

Article 211. The Petty Offences' Code of 20 May 1971 (Journal of Laws No. 12, Item 114 with subsequent amendments¹⁰) is hereby amended as follows:

¹⁰ The amendments to the aforementioned Act were published in the Journal of Laws for the year 1981 No. 24, Item 124, of the year 1982 No. 16, Item 125, of the year 1983 No. 6, Item 35 and No. 44, Item 203, of the year 1984 No. 54, Item 275, of the year 1985 No. 14, Item 60 and No. 23, Item 100, of the year 1986 No. 39, Item 193, of the year 1988 No. 20, Item 135 and No. 41, Item 324, of the year 1989 No. 34, Item 180, of the year 1990, No. 51, Item 297, No. 72, Item 422 and No. 86, Item 504, of the year 1991 No. 75, Item 332 and No. 91, Item 498, of the year 1992 No. 24, Item 101, of the year 1994 No. 123, Item 600, of the year 1995, No. 6, Item 29, No. 60, Item 310 and No. 95, Item 475, of the year 1997 No. 54, Item 349, No. 60, Item 369, No. 85, Item 539, No. 98, Item 602, No. 104, Item 661, No. 106, Item 677, No. 111, Item 724, No. 123, Item 779, No. 133,

a) §1 will be replaced by the following:

“§1. Any person who performs Telecommunications activities without having submitted a written motion for entry in the register of telecommunications undertakings, will be punished with arrest, restriction of liberty or a fine.”;

b) §2 will be repealed;

c) §3 will be replaced by the following:

“§3. Any person who markets radio and telecommunications terminal equipment subject to the obligatory conformity assessment with the essential requirements not in possession of the required conformity marking, will be punished with a fine.”;

d) §4 will be repealed.

Article 212. The Police Service Act of 6 April 1990 (Journal of Laws 2002 No. 7 Item 59 with subsequent amendments¹¹) is hereby amended as follows:

1) in Article 19 (12) the words “Operators performing Telecommunications activities in the public networks” will be replaced by “Entities performing Telecommunications activities”;

2) in Article 20c:

a) Paragraph 1 will be replaced by the following:

“1. Data identifying the subscriber, network termination points or telecommunications equipment between which a connection is realised and data related to the connection or connection attempt between specified telecommunications equipment or network termination points, as well as the circumstances and type of the realized connection, may be revealed to the Police and processed by the Police — only for the purpose of preventing or detecting crime.”;

b) in Paragraph 3, the words “telecommunications network operator” will be replaced by “entity performing Telecommunications activities”;

c) in Paragraph 4, the words “telecommunications networks operators” will be replaced by “entities performing Telecommunications activities”;

Item 884 and No. 141, Item 942, of the year 1998 No. 113, Item 717, of the year 1999 No. 83, Item 931 and No. 101, item 1178, of the year 2000 No. 22, Item 271, No. 73, Item 852, No. 74, Item 855 and No. 117, Item 1228, of the year 2001 No. 100, Item 1081, No. 106, Item 1149, No. 125, Item 1371, No. 128, Item 1409 and No. 129, item 1438, of the year 2002 No. 19, Item 185, No. 25, Item 253 and No. 135, Item 1145 and of the year 2004 No. 11, Item 95, No. 62, Item 576 and No. 69, Item 626 and No. 93, Item 891.

¹¹ The amendments to the aforementioned Act were published in the Journal of Laws for the year 2002, No. 19, Item 185, No. 74, Item 676, No. 81, Item 731, No. 113, Item 984, No. 115, item 996, No. 153, Item 1271, No. 176, Item 1457 and No. 200, Item 1688 and of the year 2003 No. 90, Item 844, No. 113, Item 1070, No. 130, Item 1188 and 1190, No. 137, Item 1302, No. 166, Item 1609, No. 192, Item 1873 and No. 210, Item 2036.

- d) in Paragraph 8, the words “of the telecommunications network operator” will be replaced by “of the entity performing the Telecommunications activity”.

Article 213. The Border Guard Act of 12 October 1990 (Journal of Law 2002 No. 171, Item 1399 with subsequent amendments¹²) is hereby amended as follows:

- 1) in Article 9e (13) the words “Undertakings performing Telecommunications activities in public networks” will be replaced by “Entities performing Telecommunications activities”;
- 2) in Article 10b:
 - a) Paragraph 1 will be replaced by:

“1. Data identifying the subscriber, network termination points or telecommunications equipment between which a connection is realised and data related to the connection or connection attempt between specified telecommunications equipment or network termination points, as well as the circumstances and type of the realized connection, may be revealed to the Border Guard and processed by the Border Guard only for the purpose of preventing or detecting crime.”,
 - b) in Paragraph 3, the words “Undertakings performing activities in the telecommunications area in public networks” will be replaced by “Entities performing Telecommunications activities”.

Article 214. The Fiscal Control Act of 28 September 1991 (Journal of Laws 2004, No. 8, Item. 65, No. 64, Item 594 and No. 91, item 868) is hereby amended as follows:

- 1) In Article 36b:
 - a) Paragraph 1 will be replaced by the following:

“1. Fiscal intelligence may obtain and process data identifying the subscriber, network termination points or telecommunications equipment between which a connection is realised and data related to the connection or connection attempt between specified telecommunications equipment or network termination points, as well as the circumstances and types of the realized connection.”,
 - b) in Paragraph 3, the words “Telecommunications network operators” will be replaced by “Entities performing Telecommunications activities”;
- 2) In Article 36c (10), the words “Telecommunications network operators in public networks” will be replaced by “Entities performing Telecommunications activities”.

Article 215. The following paragraph will be added to Article 15 of the Corporate Income Tax Act of 15 February 1992 (Journal of Laws 2000, No. 54, Item 654 with subsequent amendments¹³) after Paragraph 1o):

¹² The amendments to the aforementioned Act were published in the Journal of Laws for the year 2003 No. 90, Item 844, No. 113, Item 1070, No. 128, Item 1175, No. 137, Item 1302, No. 166, Item 1609 and No. 210, Item 2036 and of the year 2004 No. 29, Item 257.

“1p) In the case of telecommunications undertakings, the tax deductible costs are costs determined according to Paragraph 1, as well as:

- 1) the amount of subsidy referred to in Article 95 (1) of the Telecommunications Law of 16 July 2004 (Journal of Laws, No. 171, Item 1800),
- 2) the amount of the annual telecommunications fee referred to in Article 183 of the Act referred to in Subparagraph 1.”

Article 216. The Broadcasting Act of 29 December 1992 (Journal of Laws 2001, no. 101, Item 1114 with subsequent amendments¹⁴) is hereby amended as follows:

1) in Article 26:

a) Paragraph 5 will be replaced by the following:

“5. The Chairman of the National Council, in agreement with the President of the Office of Telecommunications and Post Regulation, will decide the spectrum rights necessary for the performance of statutory tasks by companies and will specify the conditions for the use of such frequencies. The provisions of Article 114 and Article 115 of the Telecommunications Law of 16 July 2004 (Journal of Laws, No. 171, Item 1800) will be respectively applied to the granting, amending and withdrawing of the spectrum rights within the scope specified in Article 37 (1) (3).”,

b) paragraph 8 will be replaced by the following:

“8. Article 115 (3) of the Telecommunications Law of 16 July 2004 (Journal of Laws, No. 171, Item 1800) will be applied to the spectrum rights designed for spreading or distributing programmes digitally, by terrestrial broadcasting or satellite broadcasting”;

2) Article 37a (3a) will be replaced by the following:

“3a. In the event of the spectrum right being required to broadcast radio or television programmes, it is made together with the concession. The provisions of Article 114 and 115 of the Telecommunications Law of 16 July 2004 will be applied to the granting, amending and withdrawing of the spectrum rights.”.

Article 217. In the Military Police Act of 24 August 2001 (Journal of Laws No. 123, item 1353 with subsequent amendments¹⁵) in Article 30:

¹³ The amendments to the uniform text of the aforementioned Act were published in the Journal of Laws for the year 2000 No. 60, Item 700 and 703, No. 86, Item 958, No. 103, Item 1100, No. 117, Item 1228 and No. 122, Item 1315 and 1324, of the year 2001 No. 106, Item 1150, No. 110, Item 1190 and No. 125, Item 1363, of the year 2002 No. 25, Item 253, No. 74, Item 676, No. 93, Item 820, No. 141, Item 1179, No. 169, Item 1384, No. 199, Item 1672, No. 200, Item 1684 and No. 230, Item 1922, of the year 2003 No. 45, Item 391, No. 96, Item 874, No. 137, Item 1302, No. 180, Item 1759, No. 202, Item 1957, No. 217, Item 2124 and No. 223, Item 2218 and of the year 2004 No. 6, Item. 39, No. 29, Item 257, No. 54, Item 535, No. 93, Item 894, No. 116, Item 1203, No. 121, Item 1262, No. 123, Item 1291 and No. 146, Item 1546.

¹⁴ The amendments to the aforementioned Act were published in the Journal of Laws for the year 2002 No. 25, Item 253 and No. 56, Item 517, of the year 2003 No. 96, Item 874 and of the year 2004 No. 91, Item 874.

- a) Paragraph 1 will be replaced by:

“1. Data identifying the subscriber, network termination points or telecommunications equipment between which a connection is realised and data related to the connection or connection attempt between specified telecommunications equipment or network termination points, as well as the circumstances and type of the realised connection, may be revealed to the Military Police and processed by the Military Police only for the purpose of preventing or detecting crime.”,

- b) in Paragraph 3, the words “Undertakings performing activities in the area of telecommunications in public networks” will be replaced by “Entities performing Telecommunications activities”.

Article 218. The Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002 (Journal of Laws No. 74, Item 676 with subsequent amendments¹⁶) is hereby amended as follows:

- 1) In Article 27 (12), the words “Operators performing Telecommunications activities in public networks” will be replaced by “Entities performing Telecommunications activities”;

- 2) In Article 28:

- a) in Paragraph 1, Subparagraph 1 will be replaced by the following:

“1) identifying the subscriber, the network termination points or telecommunications equipment and related to the fact, circumstances and type of connection or connection attempt between specified telecommunications equipment or network termination points,”,

- b) in Paragraph 1 (2) after the words “network termination points”, the words “or telecommunications equipment” will be added,

- c) in Paragraph 2, the words “telecommunications network operator” will be replaced by “entity performing Telecommunications activities”,

- d) in Paragraph 3, the words “telecommunications network operator” will be replaced by “entity performing Telecommunications activities”,

- e) in Paragraph 4 the words “telecommunications network operators” will be replaced by “entities performing Telecommunications activities”.

¹⁵ The amendments to the aforementioned Act were published in the Journal of Laws for the year 2001, No. 154, Item 1800, of the year 2002 No. 74, Item 676 and No. 89, Item 804, of the year 2003 No. 113, item 1070 and No. 139, item 1326 and of the year 2004 No. 116, Item 1203.

¹⁶ The amendments to the aforementioned Act were published in the Journal of Laws for the year 2003, No. 90, Item 844, No. 113, item 1070, No. 130, Item 1188 and No. 166, Item 1609 and of the year 2004 No. 109, Item 1159.

Article 219. The Military Information Services Act of 9 July 2003 (Journal of Laws No. 139, Item 1326 and No. 179, Item 1750 and of 2004 No. 19, Item 177) will be hereby amended as follows:

- 1) in Article 26 (5), the words “Operators providing telecommunications services in public networks” will be replaced by “Entities performing Telecommunications activities”;
- 2) in Article 27:
 - a) in Paragraph 1, Subparagraph 1 will be replaced by:

“1) identifying the subscriber, the network termination points or telecommunications equipment and related to the fact, circumstances and type of connection or connection attempt between specified telecommunications equipment or network termination points;”,
 - b) in Paragraph 1 (2) after the words “network termination points”, the words “or telecommunications equipment” will be added,
 - c) in Paragraph 2, the words “telecommunications network operator” will be replaced by “entity performing Telecommunications activities”,
 - d) in Paragraph 3, the words “Telecommunications network operator” will be replaced by “Entity performing Telecommunications activities”,
 - e) in Paragraph 4, the words “Telecommunications network operator” will be replaced by “Entity performing Telecommunications activities”.

Article 220. The Postal Law of 12 June 2003 (Journal of Laws No. 130, Item 1188 and of the year 2004 No. 69, Item 627 and No. 96, Item 959) is hereby amended as follows:

- 1) in Article 62, Paragraph 1 will be replaced by the following:

“1. The sender or the addressee will have the right to vindicate claims specified in the Act resulting from relationships with an operator which provides universal postal services within the scope of universal postal services provision, in court proceedings, in the proceedings referred to in Article 62a, or in the proceedings before a permanent consumer court of arbitration, upon exhausting the complaint procedure,
- 2) The following articles will be added after Article 62:
 - “Article 62a. 1. A civil dispute between a consumer and an operator providing postal services may be settled through arbitration by means of mediation proceedings.
 2. The mediation proceedings are conducted by the President of the URTiP following the motion of a consumer or ex officio in the event of by protection of consumer interest being required.

3. During the mediation proceedings, the President of the URTiP will acquaint the operator referred to in Paragraph 1 with the consumer's claim, present to the parties of the case the legal regulations applicable in the case and the possible proposal of an arbitration settlement of the case.

4. The President of the URTiP may specify a time limit for the parties to settle the case.

5. The President of the URTiP may desist from the mediation proceedings in the event of the case not being settled by means of arbitration within a specified time limit or in the event of at least one of the parties declaring that it does not agree to an arbitration settlement of the case.

Article 62b. The permanent consumer courts of arbitration utilised by the President of the URTiP will act according to the principles determined in Article 110 of the Telecommunications Law of 16 July 2004 (Journal of Laws No. 171, Item 1800).”.

Chapter 2

Transitory provisions

Article 221. 1. A telecommunications undertaking deemed to be an operator with significant market power prior to the date of this Act coming into force or an operator in relation to which a decision which determines significant market power has been issued after this decision becomes effective, in the scope of:

- 1) The provision of telephone services from public fixed telephone networks – shall perform the obligations referred to in:
 - a) Article 33 – in the scope of network interconnection,
 - b) Article 34 (2) (2) – in the scope of access to a local loop or sub-loop, in the event of full access or shared access, together with collocation and access to cable links and relevant information systems,
 - c) Article 34 (2) (5) – in the scope of building and telecommunications infrastructure access, while the fees for building or telecommunications infrastructure access should be based on clear and objective criteria to ensure the equal treatment of users,
 - d) Article 34 (2) (10) – in the scope of satisfying any and all justified demands associated with access to its network, including the demand for the provision of access to its network at every technically justified point of this network which is not a network termination point, while the motion is deemed justified, on condition that the connected network has been constructed according to legal regulations,
 - e) Article 34 (2) (11),
 - f) Article 36 – in the scope of network interconnection,
 - g) Article 37 (1) – in the scope of the provision of telecommunications undertakings intending to conclude a network interconnection agreement, and with the information necessary to prepare this agreement,
 - h) Article 38 – in the scope of network interconnection,
 - i) Article 39 – in the scope of network interconnection, in the event of the calculation of costs under the obligation imposed in Article 39 being impossible, the President of the URTiP may, by means of an administrative decision, impose the obligation of appropriate fee adaptation, having considered the amount of fees used on comparable competitive markets,
 - j) Article 42 (1) – in the scope of network interconnection, the line lease service, building and telecommunications infrastructure access and local loop access,

- k) Article 43 (6) – in the scope of network interconnection, the line lease service, building and telecommunications infrastructure access and local loop access,
 - l) Article 46 (3) (3) and (3) (4),
 - m) Article 72;
- 2) providing telephone services provided in public mobile telephone networks – shall perform the obligations referred to in:
- a) Article 33 – in the scope of network interconnection,
 - b) Article 34 (2) (5) – in the scope of building and telecommunications infrastructure access,
 - c) Article 34 (2) (10) – in the scope of satisfying any and all justified demands associated with access to its network, including the demand for the provision of access to its network at every technically justified point of this network which is not a network termination point, while the motion is deemed justified, on condition that the connected network has been constructed according to legal regulations, while the relevant fees should be fixed based on clear and objective criteria which ensures the equal treatment of users,
 - d) Article 34 (2) (11),
 - e) Article 36 – in the scope of network interconnection,
 - f) Article 37 (1) – in the scope of providing a telecommunications undertaking, intending to conclude a network interconnection agreement with the information necessary to prepare this agreement;
- 3) providing telecommunications line lease services – shall perform obligations referred to in:
- a) Article 33 – in the scope of network interconnection,
 - b) Article 34 (2) (5) – in the scope of building and telecommunications infrastructure access,
 - c) Article 34 (2) (10) – in the scope of satisfying any and all justified demands associated with access to its network, including the demand for the provision of access to its network at every technically justified point of this network which is not a network termination point, while the motion is deemed justified, on condition that the connected network has been constructed according to legal regulations,
 - d) Article 34 (2) (11),
 - e) Article 36 – in the scope of network interconnection,

- f) Article 37 (1) – in the scope of providing a telecommunications undertaking intending to conclude a network interconnection agreement with the information necessary to prepare this agreement;
 - g) Article 38 – in the scope of network interconnection,
 - h) Article 39 – in the scope of network interconnection, in the event of the calculation of costs under the obligation imposed in Article 39 being impossible, the President of the URTiP may, by means of an administrative decision, impose the obligation of adequate fee adaptation, having considered the amount of fees used on comparable competitive markets,
 - i) Article 42 (1) – in the scope of network interconnection, building and telecommunications infrastructure access and the line lease service,
 - j) Article 43 (6) – in the scope of network interconnection, building and telecommunications infrastructure access and the line lease service,
 - k) Article 46 (3) (3) and (3) (4),
 - l) Article 72;
- 4) Providing services on the national inter-operator connection market, including intra-network connections – shall perform the obligations referred to in:
- a) Article 33 – in the scope of network interconnection,
 - b) Article 34 (2) (5) – in the scope of building and telecommunications infrastructure access,
 - c) Article 34 (2) (10) – in the scope of satisfying any and all justified demands associated with access to its network, including the demand for the provision of access to its network at every technically justified point of this network which is not a network termination point, while the motion is deemed justified, on condition that the connected network has been constructed according to legal regulations,
 - d) Article 34 (2) (11),
 - e) Article 36 – in the scope of network interconnection,
 - f) Article 37 (1) – in the scope of providing a telecommunications undertaking intending to conclude a network interconnection agreement with the information necessary to prepare this agreement;
 - g) Article 38 – in the scope of network interconnection,
 - h) Article 39 – in the case of network interconnection, in the event of the calculation of costs under the obligation imposed in Article 39 being impossible, the President of the URTiP may, by means of an administrative decision, impose the obligation

of adequate fee adaptation, having considered the amount of fees used on comparable competitive markets,

i) Article 46 (3) (3) and (3) (4).

2. The imposition of the obligations under Paragraph 1 on telecommunications undertakings is deemed equivalent to the impositions of these obligations by means of an administrative decision from the President of the URTiP in the course provided for in the Act.

3. The provision of Paragraph 1 applies from the day the proper decisions referred to in Article 25 become effective.

4. Prior to the appointment of the telecommunications undertakings designated to provide the universal service, the obligation to provide this service is performed by the undertaking which has been deemed, under previous regulations, to be a public operator with significant market power in the scope of the provision of telephone services from public fixed telephone networks.

5. During the period of application referred to in Paragraph 1 or in the period referred to in Paragraph 4, the telecommunications undertakings perform the obligations referred to in these regulations, applying secondary legislation issued under the Telecommunications Law of 21 July 2000 (Journal of Laws No 73, item 852, with later amendments¹⁰).

Article 222. 1. With the exception of Article 226, previous regulations apply to cases initiated and not closed prior to the date of this Act coming into force.

2. The provisions of the Act apply to cases initiated under Article 40 (2) of the Telecommunications Law of 21 July 2000 and not closed prior to the date of this Act coming into force.

3. Previous regulations apply to cases closed within the confines of administrative proceedings and not closed during the course of revocatory proceedings.

Article 223. Secondary laws issued under the Telecommunications Law of 21 July 2000 remain effective until new secondary law is issued under the Act; however, not for a period longer than 12 months from the date of this Act coming into force.

Article 224. 1. The President of the URTiP enters a telecommunications undertaking possessing a telecommunications licence or telecommunications activity submission under previous regulations at the date of this Act coming into force into the registry ex officio and issues a certificate within 8 months of the date of this Act coming into force.

2. A telecommunications undertaking performing telecommunications activity not required to possess a telecommunications licence or submit telecommunications activity under previous regulations, shall submit an application for the making of an entry in the registry referred to in Article 10 (4) within 60 days of the date of this Act coming into force.

¹⁰ The changes to the referred to Act have been announced in the Journal of Laws of 2001 No. 122, item 1231 and No. 154, item 1800 and 1802, of 2002 No. 25, item 253, No. 74, item 676 and No. 166, item 1360 and of 2003 No. 50, item 424, No. 113, item 1070, No. 130, item 1188 and No. 170, item 1652.

3. The telecommunications undertaking referred to in Paragraph 1 may, on rules specified in the Act, perform telecommunications activity in the scope specified in its telecommunications licence or resulting from the telecommunications activity submission made.

4. In the event of the information included in the licence or submission referred to in Paragraph 1 not containing all of the data referred to in Article 10 (4), the President of URTiP may call upon the telecommunications undertaking to complete the required information within 30 days of the date of summons delivery.

5. In the event of the period referred to in Paragraph 2 passing without resolution, the President of the URTiP issues an administrative decision with regard to removing the telecommunications undertaking from the registry.

6. Telecommunications licences and telecommunications activity submissions remain effective until the date of the entry referred to in Paragraph 1 being made.

7. The telecommunications undertakings referred to in Paragraph 1 which have financial obligations towards the National Treasury due to license fees, shall realize them under previous rules.

8. The provisions of the Act do not violate the provisions of the Public Fixed Telephone Network Operators License Obligations Restructuring Act of 23 November 2002 (Journal of Laws No 233, item 1956).

Article 225. Undertakings or other entities entitled to perform business activity under separate regulations and which have exploited an internal network or have provided services within an internal network under previous regulations prior to the date of this Act coming into force, may perform the previous activity on the condition that an application be submitted for the making of an entry in the registry within 8 months of the date of this Act coming into force.

Article 226. Applications for the issuing of a telecommunications licence not conclusively decided prior to the date of this Act coming into force, and telecommunications activity submissions, in which the period allowing the commencement of the activity included in the submission has not yet passed, are treated as applications for the making of an entry in the registry.

Article 227. 1. Spectrum rights and numbering allocations made prior to the date of this Act coming into force, including those included in telecommunications licences, become spectrum rights or numbering allocations accordingly under the Act.

2. Radio licences and radio equipment operator certificates under previous regulations become radio licences and radio equipment operator certificates accordingly, under the Act.

3. The provisions of Article 122 (1) (1), (1) (3), (2) and (3) and Article 123 apply accordingly to spectrum rights and radio licences issued prior to the date of this Act coming into force.

Article 228. 1. The President of the URTiP appointed under previous regulations until the end of his tenure.

2. URTiP employees become URTiP employees under the Act on the date of this Act coming into force.

3. Regional departments comprising the URTiP prior to the date of this Act coming into force become regional departments under the Act.

4. Members of the Telecommunications Council and Postal Services Council appointed under previous regulations perform their duties until the end of their tenure.

Article 229. From 31 December 2004, the URTiP will be financed from the budget part allocated to URTiP functioning.

Article 230. A public operator with the appropriate telecommunications licence for the utilization of a network meant for spreading or distributing radio or TV programs prior to the date of this Act coming into force, shall pay the fee referred to in Article 30 (2) of the Telecommunications Law of 21 July 2000 for the year 2004.

Article 231. The fee referred to in Article 183 is paid for the year 2005 by a telecommunications undertaking which has performed telecommunications activity for at least 2 years prior to the date of this Act coming into force.

Article 232. The requirements referred to in Article 148 (1) (3) (a) do not apply to radio equipment used under licences issued prior to the date of this Act coming into force.

Article 233. Apparatus, including radio equipment and telecommunications terminal equipment without the conformity marking, marketed or used under regulations in force prior to the date of this Act coming into force, may continue to be used on condition that they do not cause interference to the operation of other apparatus.

Chapter 3

Final provisions

Article 234. The Telecommunications Law of 21 July 2000 (Journal of Laws No. 73, item 852, with subsequent amendments¹¹) becomes null and void, with the exception of Articles 25 (5), 27 (3), 30-33 and 112 (5) and (6), which become null and void on 31 December 2004.

Article 235. This Act will come into force upon 30 days of its announcement, with the exception of Articles 81 (5), 100, 118 (7), 150 (3), 180 (2) and 183-185, which will come into force on 1 January 2005.

President of the Republic of Poland: *A. Kwaśniewski*

¹¹ The changes to the referred to Act have been announced in the Journal of Laws of 2001 No. 122, item 1321 and No. 154, item 1800 and item 1802, of 2002 No. 25, item 253, No. 74, item 676 and No. 166, item 1360 and of 2003 No. 50, item 424, No. 113, item 1070, No. 130, item 1188 and No. 170, item 1652.