

Official translation

REPUBLIC OF LITHUANIA

LAW

AMENDING THE LAW ON TELECOMMUNICATIONS

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**Article 1. New Version of the Law of the Republic of Lithuania on
Telecommunications**

The Law on Telecommunications of the Republic of Lithuania shall be amended and set forth to read as follows:

"REPUBLIC OF LITHUANIA

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ON TELECOMMUNICATIONS

CHAPTER ONE

GENERAL PROVISIONS

Article 1. Purpose and Application of the Law

1. This Law shall establish the telecommunications regulatory framework of the Republic of Lithuania, with due regard to the requirements of the European Union law and the Convention of the International Telecommunication Union, regulate relations between the telecommunications operators and the users of their services, the management, use and control of radio communication, as well as the import, manufacturing, use and maintenance of equipment radiating electromagnetic waves, ensure an effective use of radio frequencies and telephone numbers, and set forth conditions for promoting competition in the telecommunications sector.

2. This Law shall not regulate the licensing of the activities of radio and television programme broadcasters, with the exception that the basic technical conditions for the radio and television station frequencies/channels of co-ordinated activity and telecommunications networks for broadcasting and/or re-broadcasting of radio and television programmes must be submitted to the Lithuanian Radio and Television Commission.

Article 2. Principles of the Regulation of Telecommunications Activities

Regulation of telecommunications activities shall be based on the principles of effective management of limited resources, technological neutrality, functional equivalence, minimum of necessary regulation, legal certainty in co-ordination with the dynamic market, economic development, securing effective competition, protection of consumer rights, objectivity of the criteria, transparency, equality and non-discrimination.

Article 3. Main Definitions Used in the Law

1. **Subscriber** – any person who is a party to a contract of supply of public telecommunications services with the provider of those services.

2. **Equipment and devices** - radio electronic equipment and electric devices that radiate or can radiate radio waves when in operation.

3. **Protected service** – radio and/or television broadcasting services, information services which are based on conditional access and provided against remuneration.

4. **Persons** - natural persons and legal entities.

5. **Unbundled access to the local loop** – fully unbundled access to the local loop and shared access to the local loop. Provision of unbundled access does not mean transfer of the rights of ownership to the local loop.

6. **Local sub-loop** – a part of the local loop connecting the network termination point located on the subscriber's property with a concentration point or a designated closest access point of the fixed public telephone network.

7. **Actual service user** – natural person using public telecommunications services for private or business purposes.

8. **Terminal equipment** - equipment of telecommunications service users intended for the connection to the termination points of the corresponding telecommunications network.

9. **Shared access to a local loop** - access to the local loop or partial local loop of the designated local loop operator provided to a local loop beneficiary granting him the right to use the non-voice band frequency spectrum of the physical line.

10. **Cross subsidising** - use of the revenue received for services provided at an end price higher than the overall costs of providing the services, to compensate for the revenue received for other services provided at an end price lower than the overall costs of providing the services.

11. **National Radio Frequency Allocation Table** – a document approved by the Government establishing allocation of radio frequencies for radio communication, including broadcasting, industrial, scientific, and medical and other needs.

12. **Designated local loop operator** – an operator of a fixed public telephone network designated by a decision of the Communications Regulatory

Authority, enjoying significant market power in providing fixed public telephone networks and services.

13. **Access** – a facility granted by a telecommunications operator to another telecommunications operator and/or telecommunications service provider to use, under contractual terms, the infrastructure of the telecommunications operator and/or services to provide telecommunications services under the terms and conditions set forth in this Law and other legal acts.

14. **Collocation** – granting physical space and technical infrastructure necessary for placing and connecting relevant equipment.

15. **Radio waves** – electromagnetic waves of frequencies from 9 kHz to 3,000 GHz, propagated in space without artificial guide.

16. **Radio frequency/channel assignment** – authorisation issued by the Communications Regulatory Authority to use radio frequency or channel under the established terms and conditions.

17. **Radio amateur** – a natural person involved in radio communication activities for personal purposes or purposes unrelated to business and not seeking profit.

18. **Radio equipment** - equipment used for transmitting, sending and/or receiving radio signals

19. **Radio channels** - a band of radio frequencies for the designated whole of technical facilities and radio waves propagation environment intended for the transmission and receiving of certain information.

20. **Radio Regulations** - an official publication of the International Telecommunication Union establishing radio communication management.

21. **Radio communication** - transmission, sending and/or receiving of information by means of radio waves.

22. **Radio monitoring** - a permanent control of parameters of the radio waves environment.

23. **Radio disturbance** - the unwanted electromagnetic oscillations of various origin (electromagnetic noise, unwanted signal, change in the spread environment) obstructing the reception of the wanted radio signal and reproduction of the information.

24. **Radio interference** – degradation of the operation of equipment or a device, a communications channel or system due to the influence of radio disturbance.

25. **Conditional access** – any technical and/or other measure providing access to the protected service subject to a prior individual authorisation from the provider of such service.

26. **Leased line** – a non-switched telecommunications line connecting the telecommunications network termination points.

27. **Leased line service** – a telecommunications service enabling transmission between network termination points without the switching controlled by a telecommunications service user.

28. **Transmission** – encoded or non-encoded emission of radio and/or television signals to the public via telecommunications networks.

29. **Related facilities** – facilities relating to the provision of unbundled access to the local loop including collocation, cable connections, relevant IT systems necessary for the beneficiary of the local loop to provide services under the conditions of fair competition.

30. **Telecommunications** - transmitting, sending, receiving of information (signs, signals, written texts, images and sounds or other information) by wire, radio, optical, and other electromagnetic systems.

31. **Telecommunications infrastructure** - entirety of telecommunications networks, equipment, devices, lines, conduits, cables, cable ducts, collectors, towers, masts and other facilities intended for the pursuit of telecommunications activities.

32. **Telecommunications line** - a physical link connecting any points of a telecommunications network.

33. **Telecommunications operator** - an undertaking operating his own or another person's telecommunications network (maintaining, developing, managing its functioning and interconnecting it with other networks).

34. **Telecommunications services** - services wholly or partly related to the transmission and switching of signals, including transmission of radio and

television programmes via telecommunications networks, with the exception of radio and television broadcasting and/or re-broadcasting activities.

35. **Telecommunications service user** – a person to whom public telecommunications services are provided or who has applied for their provision.

36. **Telecommunications service provider** - an undertaking providing telecommunications services via his own or another person's telecommunications network.

37. **Telecommunications network** – an information transmission system and/or switching and other equipment which ensure the conveyance of signals by wire, radio, optical and by other electromagnetic means.

38. **Telecommunications network provision** - establishment, management, control of the telecommunications network and/or providing access to it.

39. **Interconnection of telecommunications networks** – the physical and logical linking of telecommunications networks used by the same and/or different operator and/or service provider, enabling the users of services of one operator and/or service provider to intercommunicate and/or communicate with the users of services of another operator and/or service provider, or to use the telecommunications services provided by another operator and/or service provider.

40. **Telecommunications activities** – activities involving the provision of telecommunications services and telecommunications networks.

41. **Network termination point** - physical connectors conforming to the technical access requirements and constituting a part of the public telecommunications network, necessary for connecting the terminal equipment to the public telecommunications network and maintaining effective communication via the network.

42. **Broadcasting** – production and initial transmission/relay of programmes to the public by telecommunications networks.

43. **Broadcaster** – a person, having a licence for broadcasting and/or re-broadcasting, or in cases prescribed by law, having no licence, who assumes editorial responsibility for the programmes he broadcasts, who produces and

broadcasts programmes himself or has them re-transmitted or transmitted, without any alteration, by third parties under his authority.

44. **Undertaking** - enterprises, their groups (associations, amalgamations, consortiums etc.) institutions or organisations or other legal entities or natural persons who are pursuing or can pursue an economic activity in the Republic of Lithuania, and whose actions have an impact on, or whose intentions, where realised, could have an impact on economic activities in the Republic of Lithuania. State and municipal institutions of the Republic of Lithuania pursuing an economic activity shall be deemed to be undertakings.

45. **Undertaking with significant market power** – an undertaking whose share of the relevant telecommunications market, as a rule, is over 25 per cent.

46. **Universal services** - a minimum of telecommunications services of established quality, which, irrespective of geographical location, is provided for an affordable price to all telecommunications service users who have ordered these services.

47. **Consumer** – any natural person to whom public telecommunications services are provided for personal, family or household purposes which are outside his trade, business or profession.

48. **Vertically integrated undertaking** - an undertaking performing two or more of the functions of the same value chain.

49. **Public fixed telephone network** - a public switched telecommunications network which enables transfer of speech, at least 3,1 kHz bandwidth audio information and provision of voice telephony services between network termination points at fixed locations.

50. **Public mobile telephone network** – a public telecommunications network intended for the transmission of radio communications between mobile or between mobile and fixed telephone network terminal equipment.

51. **Public telecommunications network** - a telecommunications network which is fully or partly used to provide public telecommunications services.

52. **Public fixed telephone services** - local, long distance and international telephone services provided to the users of telecommunications services via a public fixed telephone network.

53. **Public mobile telephone services** – telecommunications services whose provision wholly or partly covers establishment of radio communication with one mobile services user and are wholly or partly realised via a public mobile telephone network.

54. **Public telephone services** – fixed public telephone services and mobile public telephone services.

55. **Public telecommunications services** – publicly provided telecommunications services.

56. **Local loop** – the physical circuit connecting the network termination point at the subscriber's premises with the main distribution frame or equivalent facility in the fixed public telephone network.

57. **Local loop beneficiary** – a person duly authorised to provide telecommunications services who may be eligible for unbundled access to a local loop.

58. **Full unbundled access to the local loop** – the provision to a local loop beneficiary of access to the local loop or local sub loop of the designated operator, authorising the use of the full frequency spectrum of the physical circuit.

CHAPTER TWO

REGULATORY AUTHORITIES OF TELECOMMUNICATIONS ACTIVITIES

Article 4. Regulatory Authorities of Telecommunications Activities

1. Telecommunications activities in the Republic of Lithuania shall be regulated under this Law by:

- 1) the Government or an institution designated by it;

2) the Communications Regulatory Authority.

2. Telecommunications activities for ensuring national defence, security and public order, the protection of state borders, civil aviation, safety of railway traffic and the uninterrupted and sound functioning of the energy sector shall be regulated within the limits of their competence by the relevant public authorities under the co-ordination of the authority designated by the Government.

Article 5. Functions of the Government or the Authority Designated by it in the Telecommunications Sector

The Government or the authority designated by it shall perform the following functions in the telecommunications sector:

1) develop and implement state strategy and policy in the telecommunications sector;

2) co-ordinate the development of state investment programmes in the telecommunications sector, assess them in terms of their economic, financial and technical feasibility and monitor their implementation;

3) approve the National Radio Frequency Allocation Table and the strategy for the allocation of radio frequencies for broadcasting and transmission of radio and television programmes;

4) co-operate with telecommunications institutions in foreign countries and, within the limits of its competence, represent the Republic of Lithuania in international organisations;

5) determine the scope and quality requirements of universal services, the procedure, terms and conditions for the provision of these services, the procedure for and cases of imposing obligations on telecommunications service providers to provide universal services.

6) upon declaration of general mobilisation, a state of war or emergency, or in the event of imminent war, natural disasters or other cases, regulate, within the powers granted by the Government, telecommunications activities, adopt legal acts binding for all the owners of telecommunications networks and facilities and for telecommunications operators;

7) adopt legal acts necessary for the implementation of this Law;

8) perform other functions set forth by laws and other legal acts of the Republic of Lithuania.

Article 6. The Communications Regulatory Authority

1. The Communications Regulatory Authority shall be an independent Government institution regulating, supervising telecommunications activities and implementing provisions of this Law other than Articles 49-56 the implementation whereof is the responsibility of the State Data Protection Inspectorate, acting in accordance with this Law, other laws of the Republic of Lithuania, and its own regulations.

2. The regulations of the Communications Regulatory Authority shall be approved by the Government.

3. The Communications Regulatory Authority shall be a legal entity, having a seal with the state emblem, which may, in its own name, acquire property and individual non-property rights and obligations.

4. The Communications Regulatory Authority shall be headed by Director. Director of the Communications Regulatory Authority and the Council of the Communications Regulatory Authority, shall be appointed for a term of five years and dismissed by the President of the Republic on the recommendation of the Prime Minister. Director of the Communications Regulatory Authority shall submit, at least once a year, by April 1, reports on the activities of the Communications Regulatory Authority to the Seimas and the Government.

5. Director of the Communications Regulatory Authority shall be dismissed in accordance with the procedure laid down in law in the following cases:

- 1) upon his resignation;
- 2) upon expiry of his term in office;
- 3) for health reasons;
- 4) upon reaching the pensionable age;
- 5) when elected to a different position or when, subject to his consent, he is transferred to another job;
- 6) when a conviction in respect of him becomes effective;
- 7) if, by his conduct, he discredited the status of the director;

8) if he fails to perform properly and in a timely manner the tasks and functions assigned under this Law and other legal acts for the Communications Regulatory Authority.

6. Director of the Communications Regulatory Authority shall issue orders and decisions, and the Council of the Communications Regulatory Authority shall issue resolutions. The Government shall have no right to repeal the orders and decisions of Director of the Communications Regulatory Authority and/or resolutions of the Council of the Communications Regulatory Authority. These legal acts may be appealed to the court in a manner prescribed by the law.

7. The Communications Regulatory Authority shall be financed from the state budget and from the income of this Authority for services provided and works performed. Their object, scope and payment procedure, upon coordination with the Ministry of Finance, shall be determined by the Communications Regulatory Authority Council which shall also give a reasoned explanation of the costs of the services provided and works performed .

Article 7. Tasks, Functions and Rights of the Communications Regulatory Authority

Tasks of the Communications Regulatory Authority shall be as follows:

1) to ensure conditions necessary for effective competition on the telecommunication services markets;

2) to ensure that there is no discrimination between telecommunications operators and telecommunications service providers and that they enjoy equal opportunities to enter into agreements on the interconnection of telecommunications networks;

3) to ensure compliance of the equipment and devices used in the Republic of Lithuania with obligatory requirements in force in the Republic of Lithuania;

4) to ensure that there is no discrimination between the telecommunications service users, and that they are accorded equality of access to public telecommunications networks and public telecommunications services;

5) ensure that operators of public telecommunications networks and telecommunications service providers meet the obligations that may be imposed

in the interests of national defence, national security, the enforcement of public order as well as during emergencies;

6) ensure electromagnetic compatibility of equipment and devices;

7) ensure efficient usage of radio spectrum (channels) and telephone numbers;

8) ensure, within the limits of its competence, protection of the rights of telecommunications service consumers.

Article 8. Functions of the Communications Regulatory Authority

Communications Regulatory Authority shall:

1) draft and approve the terms and conditions for engaging in telecommunications activities;

2) monitor compliance with the terms and conditions of telecommunications activities;

3) issue permits for manufacturing and use of equipment and devices and their sale, for the import and use of radio transmission and radio monitoring equipment and devices; approve Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment and monitor the compliance therewith;

4) draft and approve obligatory requirements for equipment and devices, terminal equipment, the connection of terminal equipment to the public telecommunications network, and for the interconnection of telecommunications networks;

5) draft and approve regulations for the construction, use and protection of telecommunications networks, minimum quality requirements for public telecommunications services as well as regulations establishing the procedure for a joint use of conduits, cable ducts, collectors, towers, masts and other facilities by telecommunications operators and telecommunications service providers;

6) draft and approve general terms and conditions of agreements on the interconnection of telecommunications networks and the procedure for the resolution of disputes between telecommunications operators and

telecommunications service providers concerning interconnection of telecommunications networks;

7) draft and approve radio communication development plans and legal acts regulating radio communication;

8) draft and submit to the Government for its approval the National Radio Frequency Allocation Table and implement it within the limits of its competence, together with the Lithuanian Radio and Television Commission, draft and submit to the Government for its approval the strategy for the allocation of radio frequencies for broadcasting and transmission of radio and television programmes, together with the Lithuanian Radio and Television Commission, in accordance with the strategy for the allocation of radio frequencies for broadcasting and transmission of radio and television programmes, draft and approve the strategic plan for the allocation of radio frequencies for broadcasting and re-broadcasting radio and television programmes (hereinafter - the Strategic Plan), covering *inter alia* the development of telecommunications networks intended for broadcasting radio and television programmes;

9) co-operate with telecommunications institutions of foreign countries and, within the limits of its competence, represent the Republic of Lithuania in international organisations and carry out international radio frequency co-ordination;

10) draft and approve lists and procedures of telecommunications activities, the commencement and termination whereof shall be notified by an undertaking to the Communications Regulatory Authority as well as the requirements for the form and content of such notification;

11) draft and approve the National Telephone Numbering Plan, legal acts setting forth the procedure for the implementation of the Plan, draft and approve the procedure for the allocation and usage of telephone numbers, control and monitor their implementation;

12) draft and approve regulations for the provision of telecommunications services;

13) draft and approve conditions for access provision and standard conditions for operators' offers concerning access;

14) examine disputes between telecommunications operators concerning the interconnection of telecommunications networks and a joint use of conduits, cable ducts, collectors, towers, masts and other facilities, access, as well as disputes between telecommunications service providers and users, within the limits of its competence and to the extent provided for by this Law, protect the rights and legitimate interests of the consumers, approve the procedure for the settlement of disputes between telecommunications service providers and users, including consumers;

15) draft and submit to the Government or the authority designated by it for its approval proposals concerning the implementation of the strategy of telecommunications development and state policy in the telecommunications sector;

16) draft and submit to the Government or the authority designated by it for approval proposals concerning the establishment of a price cap for universal services;

17) draft and submit to the Government or the authority designated by it for its approval the scope and quality requirements of universal services, the procedure, terms and conditions for the provision of these services, the procedure for and cases of imposing obligations on telecommunications service providers to provide universal services;

18) approve the requirements for telecommunications devices located in a potential radiation zone;

19) approve the procedure for the granting of rights to engage in radio amateur activities, the terms and conditions for the engagement in those activities, and issue radio amateurs licences;

20) carry out radio monitoring, investigate radio interference and undertake elimination of radio disturbance;

21) draft and approve legal acts setting forth the conditions for providing conditional access to the signals of transmitted, broadcast and re-broadcast television programmes;

22) monitor compliance with the norms and regulations for the installation and operation of master antenna television networks;

23) draft and approve legal acts setting forth the criteria and procedure for the definition of the relevant market and determination of which undertakings have significant power in the relevant market;

24) in accordance with the provisions of this Law, monitor competition in the telecommunications sector, approve and carry out the market research procedure, carry out analysis and define relevant markets, determine the market share of undertakings and their position on the relevant market, determine which undertakings enjoy significant market power and their obligations;

25) within the limits of its competence investigate and review infringements of this Law and apply sanctions to the infringers in cases and in the manner prescribed by this Law and other legislation;

26) undertake measurements for the assessment of the conformity of the technical parameters of the equipment and devices with obligatory requirements and assess the conformity of the equipment and devices as well as terminal equipment with obligatory requirements;

27) assign radio frequencies/channels, radio call signs and telephone numbers and establish the usage parameters for radio frequencies/channels, telephone numbers and telecommunications networks as well as the conditions for the use of radio call signs;

28) adopt legal acts setting forth the requirements of compliance with international standards, standards of the European Union and national standards, specifications and/or recommendations relating to provision of services, technical interfaces and/or network functioning; establish the procedure for the application of standard specifications and/or recommendations of the international, European and other regional standardisation organisations and the standards of foreign states in the Republic of Lithuania; independently establish technical requirements for the aforementioned fields;

29) co-ordinate radio frequencies/channels, carry out international protection of radio stations/frequencies;

30) perform other functions provided by the laws and other legal acts of the Republic of Lithuania .

Article 9. The Rights of the Communications Regulatory Authority

The Communications regulatory Authority shall have the right:

- 1) to control compliance with this Law, telecommunications regulations and other legal acts on telecommunications activities;
- 2) to carry out certification of equipment, devices and terminal equipment;
- 3) to control equipment and devices according to the parameters of radio emission;
- 4) to undertake radio monitoring;
- 5) under an obligation of confidentiality, to receive from state and local authorities, telecommunications operators and service providers as well as users of radio frequencies/channels and telephone numbers all the necessary information related to the fulfilment of the tasks entrusted to it, including financial information; aggregated information about individual telecommunications markets, data about the number of the subscribers of operators, their income, and the volume of the telecommunications and call traffic may not be considered confidential information;
- 6) to assign radio frequencies/channels, radio call signs and telephone numbers, establish the usage parameters for radio frequencies/channels, telephone numbers and telecommunications networks, the procedure for the assignment of and conditions for the use of radio call signs, change the assigned radio frequencies/channels, radio call signs and telephone numbers or recall their assignment in a manner prescribed by this Law;
- 7) to establish advisory commissions and to approve their regulations;
- 8) to have other rights provided by legal acts.

Article 10. Inspectors of the Communications Regulatory Authority

1. Control functions of the Communications Regulatory Authority shall be performed by inspectors of the Communications Regulatory Authority. They shall be appointed and dismissed by the Director of the Communications Regulatory Authority.

2. The Communications Regulatory Authority inspectors shall monitor compliance with this Law and other legal acts adopted on its basis as well as the

legal acts regulating the use of telecommunications networks and radio communication, the terms of conditions for telecommunications activities, check permits for the use of equipment and devices, monitor compliance with the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment, draw up records of administrative infringements, and seize the equipment and devices in cases prescribed by law.

3. The Communications Regulatory Authority inspectors, when discharging their official duties and on producing authority card and a document issued by the Communications Regulatory Authority certifying their authority and functions, shall have the right:

- 1) pursuant to conditions and the procedure set out in this Law, to obtain the necessary information;
- 2) on producing a warrant issued by the court, to enter and carry out inspection in the premises, territory or vehicles used by an undertaking, to examine the documents of the undertaking necessary for the investigation, obtain their copies and extracts, and the information stored in computers and magnetic media;
- 3) to obtain oral and written explanations from persons involved in the activities of undertakings under inspection and to request their presence in the office of the authorised official carrying out investigation and give explanations;
- 4) to obtain data and documents or their copies on the business operations of the undertaking under inspection from other undertakings, irrespective of their subordination, as well as from state and municipal institutions;
- 5) to inspect/audit business activities of the undertaking and to obtain conclusions on the basis of the inspection findings from the institutions of expert examination;
- 6) to take temporarily, subject to a reasoned decision on the taking of documents and/or items, for a time period of up to 30 days, documents and items which are necessary for or have evidential value during the investigation of an infringement and leave a description of

the documents and/or items taken and to request copies of the foregoing documents;

- 7) to seek assistance of specialists and experts for the investigation;
- 8) to use, during the examination, technical means in accordance with the procedure prescribed by law;
- 9) to inspect the equipment on site; and
- 10) other rights provided by this Law and other laws.

4. The inspectors of the Communications Regulatory Authority, when exercising the rights granted to them may seek assistance of police officers.

5. The inspectors of the Communications Regulatory Authority, when exercising the rights granted to them, shall draft documents (notices, records, requests, etc.). Their form and the procedure of their completion shall be established by the Communications Regulatory Authority.

6. The requests of the inspectors of the Communications Regulatory Authority submitted in the course of their actions indicated in the present Article, shall be obligatory to persons, the administration and staff members of the undertakings. Penalties prescribed by this Law and other laws shall be applied in the event of non-compliance with the requirements.

7. Undertakings shall have a right to bring an appeal against the illegitimate actions of the inspectors to the Director of the Communications Regulatory Authority. The appeal shall be filed within 10 days from the date of committing the actions appealed against. The Director of the Communications Regulatory Authority shall reach a decision relating to the appeal within 10 days from the date of its receipt. Where persons disagree with the decision of the Director of the Communications Regulatory Authority or where the Director of the Communications Regulatory Authority fails to reach a decision within 10 days, the persons shall have a right to bring an appeal with the court. Bringing of an appeal shall not suspend the relevant actions of the inspectors.

8. An application for authorisation for the actions referred to in paragraph 3 (2) of this Article shall be filed with the Vilnius Regional Administrative Court. The application shall state the name of the undertaking/person, the nature of suspected infringements and the actions to be taken. The application for

authorisation of the actions shall be examined by a judge of the Vilnius Regional Administrative Court who shall deliver a reasoned order to grant the application or to refuse it. The application must be examined and an order must be delivered within 72 hours from the moment of the filing of the application. If an inspector of the Communications Regulatory Authority disagrees with the order of a judge of the Vilnius Regional Administrative Court to refuse the application he is entitled to appeal it within 7 days at the Supreme Administrative Court of Lithuania. The Supreme Administrative Court of Lithuania must examine the appeal relating to the order of the Vilnius regional Administrative Court within 7 days. A representative of the Communications Regulatory Authority shall have a right to be present during the examination of the appeal. An order handed down by the Supreme Administrative Court of Lithuania shall be final and not subject to appeal. When hearing applications for authorisation of the actions and appeals courts must ensure confidentiality of the information disclosed to them and of the actions to be taken. In urgent cases, the relevant actions of inspectors of the Communications Regulatory Authority may be undertaken by a decision of the Director of the Communications Regulatory Authority. In such a case an application for an authorisation shall be filed at the court, in accordance with the procedure specified above, within 24 hours after making such a decision. Where a judge/court refuses to issue an authorisation they shall be discontinued, and the information obtained during the actions shall be immediately destroyed.

CHAPTER THREE

REGULATION OF TELECOMMUNICATIONS ACTIVITIES

Article 11. Designation of Undertakings Having Significant Market Power

1. Supervision of competition in the telecommunications sector, with the exception of supervision of competition undertaken by the Competition Council of the Republic of Lithuania pursuant to the Law on Competition of the Republic of Lithuania, shall be carried out by the Communications Regulatory Authority in co-operation with the Competition Council of the Republic of Lithuania following the procedure set forth in this Law and other legal acts.

2. The Communications Regulatory Authority, having completed market analysis, shall determine the undertakings enjoying significant market power.

3. The Communications Regulatory Authority shall establish a procedure for carrying out market analysis, draft and approve legal acts setting forth the criteria and procedure for market definition. The procedure of market analysis shall consist of the following stages: definition of the market, analysis to establish if competition in the market is effective, determination of undertakings having significant market power and establishing one or several obligations pursuant to this Law for undertakings having significant market power.

4. The Communications Regulatory Authority, having established during market analysis an undertaking possessing more than 25 percent market share on the relevant market shall designate it an undertaking enjoying significant power on that market.

5. The Communications Regulatory Authority may designate an undertaking as having significant market power even where he has less than 25 percent of the relevant telecommunications market, or not to designate it an undertaking enjoying significant market power where he has more than 25 per cent of the relevant telecommunications market within the geographical territory of a state where he is authorised to engage in his activities. In the cases specified in this paragraph the Communications Regulatory Authority shall take into account the undertaking's ability to influence the market, its turnover relative to the size of the market, its control of the means of access to end-users, its access to financial resources and its experience in providing products and services in the relevant market.

6. A list of undertakings enjoying significant market power in the relevant market shall be published in the supplement *Informaciniai pranešimai (Information Supplement)* of *Valstybės žinios (Official Gazette)*.

7. If after carrying out market analysis the Communications Regulatory Authority determines that the conditions set out in paragraphs 4 and 5 of this Article have changed, it shall adopt a new decision.

8. Before designating an undertaking as having significant power on the telecommunications market, the Communications Regulatory Authority shall notify the undertaking in writing within 28 days before the date of adopting decision.

9. Undertakings enjoying significant market power on the market of the provision of public telecommunications networks and/or public telecommunications services may provide cable television network services only through a separate legal entity.

10. When carrying out supervision of competition on the telecommunications market, the Communications Regulatory Authority shall be entitled to obtain conclusions of the Competition Council.

Article 12. Obligation of Transparency

1. An undertaking enjoying significant market power must make available to the public the information established by the Communications Regulatory Authority relating to access or network interconnection, including:

- 1) types of interfaces;
- 2) technical specifications;
- 3) network characteristics;
- 4) terms and conditions for the provision and use of access and network interconnection;
- 5) prices;
- 6) information on any planned changes important for access or network interconnection; this information must be announced within six months before the date of implementation of the planned changes.

2. The Communications Regulatory Authority shall determine a list of relevant markets where the obligation set forth in this Article shall be applied to undertakings having significant market power.

3. The Communications Regulatory Authority shall establish the scope of the information to be made available to the public, requirements for the extent of detail in it and the form of publication. The information referred to in paragraph 1 of this Article, including the terms and conditions for the geographical points of networks interconnection, testing of interconnection, a shared use of the telecommunications infrastructure and payment, the conditions for the choice of providers of telecommunications services and tariffs shall not constitute a commercial secret.

Article 13. Obligation of Non-discrimination

For the purposes of access and interconnection an undertaking with significant market power shall apply, with respect to other undertakings providing the same or equivalent services, similar conditions and shall provide services and information of the same quality and under the same conditions which he enjoys himself or provides to his units, subsidiaries or other related undertakings.

Article 14. Obligation of Account Separation

1. An undertaking enjoying significant market power in the relevant market shall keep separate accounts of the costs relating to access and interconnection.

2. For the cost accounting purposes the Communications Regulatory Authority shall establish cost allocation regulations and requirements related to cost accounting, including a requirement to undertake independent audit.

Article 15. Obligation for Cost Orientation of Prices

1. An undertaking enjoying significant market power must provide access and/or network interconnection at cost-oriented prices, including reasonable return on investment.

2. The Communications Regulatory Authority shall have the right to demand from the operator to provide justification and evidence for the cost-based prices, including a reasonable return on investment. To this end the Communications Regulatory Authority shall have the right to set the cost-based price cap for the provision of access and/or network interconnection.

3. For the cost accounting purposes the Communications Regulatory Authority shall establish cost allocation regulations and requirements, related to cost accounting, including a requirement to undertake independent audit.

Article 16. Obligation of Access Provision

1. An undertaking enjoying significant market power in the relevant market must provide access to other undertakings under the terms and conditions established by the Communications Regulatory Authority, as well as:

1) provide access to specified network elements and/or facilities to third parties;

2) not withdraw access to the facilities already granted;

3) provide the specified services for resale;

4) grant open access to technical interfaces, protocols or other technologies indispensable for interoperability of services;

5) provide co-location or other forms of telecommunications infrastructure sharing;

6) provide specified services necessary to ensure the provision of telecommunications services to the users;

7) provide access to the operational support systems or other equivalent software systems necessary to ensure effective competition in the provision of services ;

8) interconnect networks or network facilities.

2. When making a decision pursuant to paragraph 1 of this Article, the Communications Regulatory Authority must have regard to the following factors:

1) the technical and economic viability of using or installing technical facilities, taking into account the type of access or interconnection involved

2) the feasibility to provide the access requested, taking account of the capacity available;

3) the initial investment of the facility owners and the investment risks;

4) the need to ensure competition in the long term;

5) any relevant intellectual property rights.

3. The Communications Regulatory Authority shall determine a list of relevant markets where the obligation set forth in this Article shall be applicable to the undertakings enjoying significant market power.

Article 17. The Right to Engage in Telecommunications Activities

1. Undertakings shall have a right to engage in telecommunications activities without a separate prior authorisation from state institutions, pursuant to the requirements set forth in this Law and the provisions of legal acts adopted in accordance with the competence provided for in this Law.

2. The Communications Regulatory Authority shall adopt legal acts setting forth the general terms and conditions under which undertakings are entitled to engage in telecommunications activities.

3. The Communications Regulatory Authority shall approve a list of types of telecommunications activities subject to prior notification to the Communications Regulatory Authority by the undertakings if they intend to engage in such activities.

4. The Communications Regulatory Authority shall establish a list of information and documents to be submitted to it by an undertaking when notifying of the commencement of its activities, having regard to the sphere and scope of its activities.

5. Where the telecommunications activity is included in the list specified in paragraph 3 of this Article, the undertaking shall provide notification of its intent to engage in the activities not later than within 28 days before the start of activities.

6. The Communications Regulatory Authority, upon receipt of the undertaking's notification of the engagement in a telecommunications activity, shall issue, within a period of 7 days, a declaration to the undertaking confirming the receipt of the notification specifying whether the notification is in compliance with the provisions of the legal acts adopted by the Communications Regulatory Authority setting forth the general terms and conditions for the engagement of undertakings in telecommunications activities.

7. The Communications Regulatory Authority shall enter the undertaking in the list of telecommunications service providers and operators within 28 days after the receipt of an adequate notification.

8. The undertakings that are in compliance with the provisions of the legal acts adopted by the Communications Regulatory Authority setting forth the general terms and conditions for the engagement of undertakings in telecommunications activities shall be entitled to receive a declaration from the Communications Regulatory Authority confirming their compliance with the requirements of the aforementioned legal acts. The declaration shall be issued within 7 days after the receipt of the undertaking's request to be issued such a declaration. The Communications Regulatory Authority shall establish a procedure for the issue of the declaration.

9. The declarations referred to in paragraphs 6 and 8 of this Article shall specify, in addition, under what circumstances any telecommunications operator or telecommunications service provider, acting in accordance with the provisions of the legal acts setting forth the terms and conditions of engagement in

a relevant telecommunications activity, shall have the right to install facilities, negotiate network interconnection and/or gain access or interconnect networks.

10. Prior to terminating their telecommunications activity, the undertakings entered on the list of types of telecommunications activities approved by the Communications Regulatory Agency, shall notify the Communications Regulatory Authority thereof following the established procedure.

11. Undertakings engaged in telecommunications activities shall pay administrative charges to the Communications Regulatory Authority for services provided and works fulfilled; the Council of the Communications Regulatory Authority shall determine their scope, objects and payment procedure in co-ordination with the Ministry of Finance and shall duly motivate the costs of services provided and works fulfilled.

Article 18. Rights of Telecommunications Service Providers and Operators

1. Telecommunications service providers and operators shall have the right:

- 1) to provide telecommunications networks and/or services;
- 2) to establish telecommunications infrastructure pursuant to the provisions of this Law;
- 3) to negotiate, under commercial terms, interconnection of networks and interconnect networks;
- 4) to have other rights and duties that are not prohibited by legal acts.

2. In addition to the rights specified in paragraph 1, operators of public telecommunications networks and providers of public telecommunications services shall also have the following rights:

- 1) to negotiate the interconnection of networks with other operators of public telecommunications networks or providers of public telecommunications services operating under legitimate terms and, where appropriate provisions may be applicable to them, gain access and interconnect networks;

2) provide universal services following the procedure established by the Government.

Article 19. Provisions of Legal Acts Setting forth the Terms and Conditions for Engagement in Telecommunications Activities

1. The general terms and conditions for engagement in telecommunications activities established by the Communications Regulatory Authority must be substantiated objectively, taking account of the nature of networks and/or services involved in the relevant telecommunications activity, non-transparent and proportionate. The Communications Regulatory Authority shall establish only terms and conditions specific for the telecommunications sector that are not set forth by any other legal acts. The Communications Regulatory Authority may impose obligations on undertakings engaged in telecommunications activities and enjoying significant market power or providing universal services in accordance with the terms and conditions and following the procedure prescribed by this Law.

2. Provisions of the legal acts of the Communications Regulatory Authority setting forth the general terms and conditions for the engagement of undertakings in telecommunications activities may only relate to:

1) conditions of the payment of fees related to the provision of universal services;

2) payment of administrative charges to the Communications Regulatory Authority;

3) conditions of interoperability of services and network interconnection;

4) access to telephone numbers from the National Numbering Plan by end users;

5) implementation of legal acts on environment protection and territorial planning, including the provisions on granting of access to or use of land holding and conditions linked to co-location and facility sharing,, including any financial or technical guarantees necessary for ensuring proper fulfilment of infrastructure works;

6) regulations for obligatory broadcasting (transmission) of television and radio programmes;

7) regulations for protection of personal data and privacy to the extent it pertains to the telecommunications sector;

8) regulations for consumer rights protection specific to the telecommunications sector;

9) restrictions in relation to the transmission of information of illegitimate or harmful content pursuant to the legal acts of the Republic of Lithuania;

10) the provision of information;

11) providing a possibility for competent institutions to intercept telecommunications traffic according to the procedure laid down by law;

12) conditions for the use of telecommunications during natural disasters or other exceptional occurrences, ensuring communication between emergency services and institutions and broadcasts to the general public;

13) measures limiting exposure of the general public to electromagnetic fields caused by telecommunications networks;

14) access obligations other than specific obligations applying to undertakings having significant market power;

15) maintenance of the integrity of public telecommunications networks including the conditions to prevent radio disturbances between telecommunications networks and/or services;

16) security of public telecommunications networks against unauthorised access;

17) conditions for the use of radio frequencies taking into account the fact that the use of radio communications equipment may be restricted only for the reasons pertaining to effective and proper use of the radio spectrum and avoiding harmful radio disturbances or reasons relating to public health;

18) measures designed to ensure compliance with standards, specifications and/or technical requirements.

3. Telecommunications operators and telecommunications service providers shall submit to the Communications Regulatory Authority reports about

their activities in the manner and under the conditions prescribed by this institution.

4. When determining general terms and conditions under which undertakings shall have a right to engage in telecommunications activities, the Communication Regulatory Authority shall ensure that vertically integrated undertakings providing telecommunications networks do not discriminate other undertakings by giving priority to their own activity.

5. The provisions of the legal acts of the Communications Regulatory Authority laying down the general terms and conditions under which undertakings shall have a right to engage in telecommunications activities may be amended in objectively justified cases and in a manner proportionate to the objective sought. The intended change must be announced in the supplement "Informaciniai pranešimai" (Information Supplement) of "Valstybės žinios" (Official Gazette) and interested parties, including service users and consumers, must be allowed a time period of at least 28 days, with the exception of exceptional occurrences, to provide their comments.

6. The Communications Regulatory Authority shall be entitled to grant the right, without any prior authorisation, to undertakings engaged in telecommunications activities to use radio frequencies/channels the number of users whereof is not limited.

Article 20. Licences for Radio and Television Programme Broadcasters

1. The broadcaster using transmission services provided by a third party must have a licence issued by the Lithuanian Radio and Television Commission. The terms and conditions of the licence must be co-ordinated with the telecommunications operator which is to provide transmission services.

2. The broadcaster who has obtained a licence from the Lithuanian Radio and Television Commission giving it the right to establish and operate own telecommunications networks, must obtain authorisations from the Communications Regulatory Authority to establish and operate telecommunications networks. The terms and conditions of the said

authorisations must comply with the basic technical conditions for telecommunications networks intended for broadcasting and/or re-broadcasting of radio and television programmes submitted by the Communications Regulatory Authority for tenders held by the Lithuanian Radio and Television Commission.

3. The technical conditions specified in the licence issued by the Lithuanian Radio and Television Commission shall be in conformity with basic technical conditions for the radio and television station frequencies/channels of co-ordinated activity and telecommunications networks for broadcasting and/or re-broadcasting of radio and television programmes provided by the Communications Regulatory Authority, including the radio frequency/channel and the time period of the use of this frequency/channel established by the Communications Regulatory Authority, which must be in conformity with the Strategic Plan.

4. The radio frequency/channel for the transmission service specified in the licence issued to a broadcaster by the Lithuanian Radio and Television Commission giving to the broad caster the right to make use of the service provided by a third party does not give the broadcaster the right to use this frequency/channel to establish his own radio and/or television stations and/or telecommunications networks.

Article 21. Regulation of Prices for Telecommunications

Services

1. The prices for telecommunications services established by telecommunications service providers and telecommunications operators shall be supervised by the Communications Regulatory Authority in cases provided by this Law.

2. The Government shall establish a price cap for universal services.

3. Prices of providers of public fixed telephone services and operators of public fixed telephone networks having significant market power must be cost oriented, including reasonable return on investments. For this

purpose the Communications Regulatory Authority may establish price caps for public fixed telephone services and the provision of public fixed telephone network for a specific telecommunications service provider or a telecommunications operator.

4. A telecommunications operator or a telecommunications service provider with significant market power shall be prohibited to cross-subsidise services which are offered on a competitive basis.

5. Telecommunications operators and service providers must publish information on the prices and tariffs of services provided according to the procedure and within the time period prescribed by the Communications Regulatory Authority and submit it to the Communications Regulatory Authority. The published tariffs must be indicated clearly and precisely to the telecommunications service users.

6. Tariffs for telecommunications services offered by undertakings with significant market power must be established in a manner that would ensure freedom of choice for telecommunications service users between different services or service elements that are or may be provided individually, and that the tariffs are unbundled. Service users must be given an opportunity to chose individually supplementary services, i.e., services independent of the basic service or other supplementary services.

7. The tariffs established by telecommunications operators and service providers with significant market power shall be non-discriminatory and shall be applied equally with respect to all telecommunications service users of the same category.

8. The Communications Regulatory Authority shall have a right to adopt legal acts detailing the conditions and procedure for the implementation of the requirements set forth in this Article.

9. The Communications Regulatory Authority shall have a right to check the information provided by undertakings on the prices and tariffs for the services provided and to charge them with compulsory obligations.

Article 22. Interconnection of Telecommunications Networks

1. All telecommunications operators and service providers whose list is established by the Communications Regulatory Authority shall have a right and duty to negotiate the interconnection of networks. Operators of public telecommunications networks and leased lines and/or service providers with significant market power must meet the requests of other telecommunications operators to interconnect public telecommunications networks under the conditions prescribed by this Law and the Communications Regulatory Authority. Telecommunications networks must be interconnected within 3 months after the day of receiving the request, unless the operators and/or service providers agree otherwise.

2. The interconnecting parties shall provide each other with all necessary information for the establishment of contractual conditions. An undertaking with significant market power in the relevant market shall use the information received only for the purposes it had been provided for and may not transfer it to his partners, subsidiaries or other undertakings to whom such information might give competitive advantage.

3. In cases when interconnection of telecommunications networks is refused or when telecommunications operators cannot reach an agreement on interconnection to be completed within three months after receiving the first request, each of the parties to a dispute shall be entitled to apply to the Communications Regulatory Authority for the settlement of the dispute. The Communications Regulatory Authority shall, within two months, hear the dispute and shall make a decision. Other disputes on the interconnection of telecommunications networks shall be heard by the Communications Regulatory Authority within six months after the day of filing the application with the Communications Regulatory Authority. If the parties to the dispute disagree with the decision of the Communications Regulatory Authority, they shall have a right to appeal to court following the procedure prescribed by law. The Communications Regulatory Authority shall have a right to solve the issues referred to in this paragraph at its own initiative and make a decision binding on the parties.

4. Interconnection of telecommunications networks may not be refused by an undertaking having significant market power in the relevant market if the request is reasonable and technically feasible. A refusal to grant interconnection must be duly grounded, and the arguments shall be submitted in writing to the requesting telecommunications operator and to the Communications Regulatory Authority within one month after the day of submitting the request.

5. Agreements on the interconnection of telecommunications networks concluded by telecommunications operators may not contravene the general terms of interconnection of telecommunications networks.

6. Agreements on interconnection of telecommunications networks, where at least one party is a telecommunications operator having significant market power, shall be registered at the Communications Regulatory Authority. The agreement must lay down all technical and financial conditions.

7. Agreements on interconnection of telecommunications networks, where at least one party is a telecommunications operator having significant market power, shall be public, excluding information constituting a commercial secret. The information specified in Article 12, paragraph 1, including the geographic network interconnection points, the conditions for interconnection testing, sharing of telecommunications infrastructure and settlement conditions as well as the terms and tariffs for carrier pre-selection may not be regarded a commercial secret.

8. Operators having significant market power in the relevant market must, under the conditions established by the Communications Regulatory Authority, publish the schedules and terms and conditions of interconnecting with their networks. The Communications Regulatory Authority shall have a right to demand, on valid grounds, to change the published schedules, and the terms and conditions of interconnecting with an operator's network.

Article 23. Provision and Financing of Universal Services

1. Provision of the following universal services shall be ensured on the territory of the Republic of Lithuania:

- 1) public telephone services at a fixed location;

- 2) public pay-telephone;
- 3) directory services;
- 4) measures ensuring provision of access to telecommunications services to service users or users with special needs.

2. The Government shall establish the scope of universal services, quality requirements, the procedure, terms and conditions for the provision of these services as well as the procedure for and cases of imposing obligations on telecommunications service providers to provide universal services.

3. Losses of the provision of services referred to in paragraph 1 of this Article in cases and according to the procedure prescribed by the Government shall be compensated from the funds of the telecommunications service providers providing such services.

4. The Government shall have a right to introduce additional universal services, terms and conditions for provision of these services, quality requirements and the procedure for and cases of imposing obligations on telecommunications service providers to provide additional universal services.

Article 24. Duties and Rights of Providers and Users of Telecommunications Services

1. The agreement on the provision of telecommunications services shall be a public agreement. It must be in compliance with the regulations approved by the Communications Regulatory Authority.

2. The telecommunications service provider must consider the requests, suggestions and complaints received in respect of telecommunications services provided by it and give a reply to them within one month from the day of their receipt.

3. If the subscriber is in arrears to the telecommunications service provider for the services provided, the telecommunications service provider shall be entitled to demand from the subscriber an advance payment for telecommunications services.

4. The telecommunications service provider must inform the subscriber about the services provided, tariffs and prices, as well as about each separate service provided if the subscriber requests so.

5. The provider of telecommunications services must pay an indemnity for damage caused by it to the subscriber according to the procedure prescribed by law.

6. The agreement on the provision of telecommunications services must provide for the procedure of establishing and paying an indemnity where the consumer, through no fault of his, could not make use of a service provided by the service provider.

7. Telecommunications operators and telecommunications service providers shall not, at the request of subscribers, provide information to third persons about the number of terminal equipment, the place of its installation and its owner, with the exception of cases established by a decision of the Communications Regulatory Authority for meeting the tasks assigned for it and the tasks set for the institutions maintaining public order determined by a decision of the Communications Regulatory Authority and in other cases laid down by law.

8. The Communications Regulatory Authority shall have a right to obligate an undertaking having significant market power on the market providing a specific service to unbundle the cost of the provision of this service in accordance with the cost allocation regulations established by the Communications Regulatory Authority for the purpose of cost accounting and related requirements including the requirement to undertake an independent audit.

9. Telecommunications service providers shall provide unbundled services, if such services may be used separately. The Communications Regulatory Authority shall have the right to establish detailed criteria and terms and conditions for the said provision.

10. Operators of public fixed telephone networks and providers of public fixed telephone services having significant market power in a relevant market, shall ensure, in the manner prescribed by the Communications Regulatory

Authority, and at their expense, the right of their subscriber to use telephone services provided by any provider of public telephone services. Other operators of public telephone networks and providers of public telephone services having significant market power in a relevant market must ensure the right of their subscriber to use telephone services provided by any public telephone services provider from January 1, 2004.

11. Operators of public telephone networks and providers of public telephone services, under the terms and conditions and schedules within the timeframe prescribed by the Communications Regulatory Authority, shall ensure, at their expense, the right of the subscriber to retain the subscriber's number when he changes the service provider or place and manner of service provision. Operators of public telephone networks and providers of public telephone services must fulfil this obligation by January 1, 2004.

12. All providers of public telecommunications networks and/or providers of public telecommunications services must ensure, following the procedure established by the Communications Regulatory Authority, transfer of the calls of their subscribers and/or users to the emergency numbers.

13. The rights of the telecommunications service consumers shall be protected following the procedure laid down by this Law and other laws.

CHAPTER FOUR

CONSTRUCTION, MAINTENANCE, PROTECTION OF TELECOMMUNICATIONS NETWORKS AND SHARING OF TELECOMMUNICATIONS FACILITIES

Article 25. Laying of Telecommunications Lines, Construction and Sharing of Telecommunications Facilities

1. Telecommunications operators shall have a right to lay telecommunications lines and construct telecommunications facilities on the land belonging to them by the right of ownership and also on the land which, pursuant to legal acts, is subject to easement, or telecommunications operators have a right to use land on other grounds, without changing the intended use of the land.

2. During the construction or reconstruction of buildings, bridges or other structures, the removal of telecommunications lines and telecommunications facilities must be carried out by construction clients, subject to a prior consent of the owners of lines and telecommunications facilities unless the construction clients and the owners of telecommunications lines and facilities make a different arrangement.

3. During the laying of new lines or construction of telecommunications facilities, requirements laid down in the Law of the Republic of Lithuania on Territorial Planning, the Law on Protected Territories and the requirements of the Law on the Assessment of Impact of Projected Economic Activity on the Environment shall be complied with.

4. Telecommunications operators who are constructing or using public telecommunications networks shall have a right, in compliance with the legal acts effective in the Republic of Lithuania, to install aerials for joint use and the necessary equipment in the protected areas, and to use for these purposes the roofs and technical premises of multi-occupancy dwellings.

5. Telecommunications operators shall have a right to install telecommunications equipment in premises belonging to them by the right of ownership, and, subject to a permission granted by the owner of the premises, in the premises used by them on other grounds.

6. Where a telecommunications operator cannot exercise his right to lay new additional telecommunications lines and install telecommunications facilities or if the costs for exercising this right are disproportionately high, the Communications Regulatory Authority may request any other telecommunications operator to permit that operator to share, on a non-discriminatory basis, the existing conduits, cable ducts, collectors, towers, masts and other facilities or to install telecommunications facilities when this is economically expedient and does not require any additional cardinal work. In such a case the Communications Regulatory Authority shall consult, following the procedure established by this institution, the persons concerned.

7. The terms and conditions of using the conduits, cable ducts, collectors, towers, masts and other equipment belonging to another operator shall be

established by a contract. The telecommunications operator, who owns the telecommunications equipment referred to in this paragraph, may not refuse, in the cases specified by this Law, to conclude such a contract with another telecommunications operator, request its revision or termination if the obligations stipulated in the contract are being fulfilled, nor may he refuse on the grounds that there are no documents validating the lawfulness of tenure of telecommunications infrastructure.

8. A telecommunications operator shall pay, subject to the agreement of the parties, an appropriate fee to another operator for using his conduits, cable ducts, collectors, towers, masts and other facilities.

Article 26. Unbundled Access to the Local Loop

1. A designated local loop operator must provide, on transparent and non-discriminatory grounds, unbundled access to a local loop to the beneficiaries of a local loop who have submitted such a request.

2. Following adoption of a decision by the Communications Regulatory Authority that a certain operator is a designated operator of a local loop, this operator, within the time period prescribed by the Communications regulatory Authority and under the terms and conditions established by the Communications Regulatory Authority, must make a public offer for a shared access to a local loop and related facilities and an offer for a fully unbundled access to a local loop and related facilities and regularly update these offers taking account of technological and market changes.

3. The public offer made by a designated local loop operator must specify access conditions, including prices. The standard conditions of the offer shall be established by the Communications Regulatory Authority.

4. A request for unbundled access to a local loop and related facilities must be granted or a motivated refusal to provide access must be submitted within 2 months from the day of receiving the request. The designated local loop operator may refuse to grant requests for unbundled access to a local loop only on reasoned grounds or because of a necessity to ensure network integrity. The grounds for refusal must be submitted in writing to the requesting party and to

the Communications Regulatory Authority. In the event of refusal to grant unbundled access to a local loop, the local loop beneficiary who has submitted a request shall have a right to apply, following the procedure established by this Law, to the Communications Regulatory Authority with a request to settle the dispute. The Communications Regulatory Authority must settle the dispute within 3 months from the day the application was filed with it. The Communications Regulatory Authority shall also settle other disputes arising between a designated local loop operator and the beneficiaries of a local loop.

5. The prices set by a designated local loop operator for the provision of the access and related facilities specified in paragraphs 1 and 2 of this Article and shall be cost-oriented, including reasonable return on investment. To this end the Communications Regulatory Authority shall have a right to establish price caps for the provision of access and related facilities referred to in paragraphs 1 and 2. For the purposes of cost accounting the Communications Regulatory Authority shall establish cost allocation regulations and requirements related to cost accounting, including the requirement to undertake an independent audit.

6. When ensuring the provision of unbundled access to a local loop, the Communications Regulatory Authority shall have a right, at its own initiative:

1) to request, on valid grounds, that the designated local loop operator, within the time period established by the Communications Regulatory Authority, changes the terms and conditions of the offer, including prices, and updates the offer made, taking account of the market and technological changes;

2) to request from the designated local loop operator all the information related to unbundled access to a local loop;

3) to establish the conditions for the provision of unbundled access to a local loop and related facilities, including the conditions in a specific case.

Article 27. Conditional Access Services and Related Facilities

1. Operators of conditional access services providing the services of access to digital radio and television services, irrespective of the type of transmission facilities, must:

1) use only those conditional access systems that are technically capable of ensuring cost-effective control of transcontrol (i.e., conditions/facilities under which a broadcaster/rebroadcaster may use for a certain fee programme broadcasting services of third parties and relay them by using its own technical facilities), enabling network operators to fully control services at local or regional level by using such conditional access systems;

2) provide to all broadcasters on a fair, reasonable and non-discriminatory basis technical services ensuring that the digital encoded signals transmitted by the broadcasters are received by the viewers and listeners using the decoders provided by service providers/operators;

3) if operators provide, apart from conditional access services, other services, apply separate cost accounting in respect of conditional access services in compliance with the cost allocation regulations and related cost accounting requirements including the requirement to conduct an independent audit established by the Communications Regulatory Authority.

2. Compliance with the provisions set forth in paragraph 1 of this Article shall be supervised by the Communications Regulatory Authority. Disputes arising in respect of the use of conditional access services and related facilities shall be settled by the Communications Regulatory Authority within three months from the day of submitting an application to the Communications Regulatory Authority.

3. It shall be prohibited, for commercial purposes, to manufacture, possess, import, export, sell or transfer in any other manner, modify, install, or use decoders, other decoding devices or software which would provide illegal access to protected services, which are usually provided against remuneration. Advertising of this equipment shall be prohibited. Persons who have committed the infringing activities set forth in this paragraph shall be held liable in

accordance with the procedure laid down by law. Compliance with the provisions set forth in this paragraph shall be supervised following the procedure established by the Government.

Article 28. Provision of Leased Lines

1. Cases of provision, restriction and suspension of leased line services and the appropriate procedure shall be laid down in the regulations approved by the Communications Regulatory Authority.

2. The regulations shall establish the procedure of publishing and providing information about leased lines, their technical characteristics, tariffs, terms and conditions of their provision and use and conditions for the connection of terminal equipment as well as the minimum scope and quality requirements of leased line services, which on the territory of the Republic of Lithuania shall be provided by a leased line provider with significant market power.

3. The leased line provider with significant power on the relevant market shall provide leased line services for the prices which are cost-oriented, including reasonable return on investment. To this end the Communications Regulatory Authority shall have a right to establish price caps for leased line services. For the purposes of cost accounting the Communications Regulatory Authority shall establish cost allocation regulations and requirements relating to cost accounting, including the requirement to conduct an independent audit.

Article 29. Construction and Maintenance of Telecommunications Lines within Road Complexes

1. Construction of telecommunications networks, lines and facilities, protection of telecommunications networks, their sharing, laying of telecommunications lines and their maintenance within a road complex shall be regulated by the Rules of Construction, Use and Protection of Telecommunications Networks, the Law of the Republic of Lithuania on Roads and other legal acts.

2. Persons who have been authorised in accordance with an appropriate procedure to lay the lines of public telecommunications networks and who have been given the approval of state or municipal institutions shall have a right to use, free of charge, stretches of state and local roads, squares, conduits, water bodies and their shores, bridges, viaducts, tunnels and other structures.

3. In order to lay new or reconstruct the existing telecommunications lines within a road complex, it is necessary to obtain a permission of the owner of the road and/or the land, and where the works interfere with the traffic, - to get the approval of a road traffic regulation institution.

4. After completion of the laying or repairs of telecommunications lines, the telecommunications operator must restore the roads and/or structures on them to working order in a manner prescribed by legal acts.

5. During the construction, repairs or reconstruction of roads, the removal of telecommunications lines shall be carried out by the client of the construction work at his own expense, in accordance with the technical conditions specified by the owners of telecommunications lines unless the clients of construction works and owners of the communications lines agree otherwise.

Article 30. Terms and Conditions of Connecting Telecommunications Terminal Equipment and Radio Equipment

1. The terms and conditions for connecting telecommunications terminal equipment and radio equipment, as well as the obligations relating to the provision of information on interface specifications and connection, the procedure of placing of the equipment on the market, its sale and use, the procedure and conditions for conformity assessment, approval and supervision of the terminal equipment and radio equipment shall be established in the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment approved by the Communications Regulatory Authority.

2. It shall be prohibited to connect to telecommunications lines and equipment without the consent of a telecommunications operator or a telecommunications service provider.

CHAPTER FIVE
MANAGEMENT OF RADIO FREQUENCIES/CHANNELS AND TELEPHONE
NUMBERS

Article 31. Principles of the Management of Radio
Frequencies/Channels and Telephone Numbers

1. The Communications Regulatory Authority shall manage radio frequencies/channels and telephone numbers.

2. Radio frequencies/channels shall be managed in accordance with the National Radio Frequency Allocation Table.

3. Radio frequencies/channels for broadcasting and transmission of radio and television programmes shall be assigned in accordance with the Strategic Plan.

4. Telephone numbers used in public telecommunications networks shall be managed according to the National Telephone Numbering Plan. The Communications Regulatory Authority must ensure a sufficient number of telephone numbers.

Article 32. Assignment of Radio Frequencies/Channels to Broadcast
Radio and Television Programmes

1. The information about the frequencies of co-ordinated activity of radio and television stations to be assigned to broadcasters in accordance with the Strategic Plan together with the basic conditions of the activity of the telecommunications networks shall be submitted to the Lithuanian Radio and Television Commission. The Communications Regulatory Authority shall issue authorisations to build and operate broadcasting transmitters to persons having a licence issued by the Lithuanian Radio and Television Commission.

2. The frequencies/channels of co-ordinated activity of radio and television stations to be assigned, in accordance with the Strategic Plan, to telecommunications operators providing transmission services for the

reconstruction and development of telecommunications networks used for broadcasting of radio and television programmes shall be assigned by the Communications Regulatory Authority.

3. The Communications Regulatory Authority shall have a right, upon prior six-month notification of the user of radio frequency/channel, to replace the assigned radio frequency/channel with another radio frequency/channel used for the same purpose, or, upon prior twelve-month notification of the user of the radio frequency/channel to withdraw the assignment of the radio frequency/channel, where:

1) it is required under international obligations or obligations related to the European Union;

2) the National Radio Frequency Allocation Table is changed together with the change of the purpose of the radio frequency band due to international obligations or obligations to the European Union or its recommendations, subject to co-ordination with the Lithuanian Radio and Television Commission upon co-ordination with the Lithuanian Radio and Television Commission, if the assignment of a radio frequency is replaced or withdrawn before the expiry of the time period for the use of the radio frequency/channel established by the Communications Regulatory Authority;

3) a radio frequency/channel is used inefficiently according to the criteria specified in the Strategic Plan;

4) the Strategic Plan is being amended.

4. An undertaking which loses his right to engage in a telecommunications activity it shall also lose its right to use relevant radio frequencies/channels.

5. A broadcaster shall lose his right to use the assigned radio frequency upon the expiry of his licence or its withdrawal before its expiry. The Lithuanian Radio and Television Commission shall inform the Communications Regulatory Authority about the expiry of the licence or its withdrawal.

6. The general procedure for the assignment of radio frequencies/channels set forth in this Law shall not apply in respect of the assignment of radio frequencies/channels intended for broadcasting radio and television programmes, however, where the user of a radio frequency/channel violates the

terms of the authorisation for the use of a radio frequency, the technical conditions or the legal acts regulating the use of radio frequency/channel as well as the construction and operation of telecommunications networks, the general procedure for the examination of infringements and application of appropriate measures set forth in this Law shall apply. In such a case the Communications Regulatory Authority, having made a decision to withdraw the assignment of a radio frequency/channel, shall apply to the Lithuanian Radio and Television Commission with a request to withdraw the licence issued.

7. Upon co-ordination with the Lithuanian Radio and Television Commission, the Communications Regulatory Authority shall have a right to replace the assigned radio frequency/channel at the request by the user of the radio frequency/channel.

Article 33. Principles of Granting the Right to Use Radio Frequencies/Channels and Telephone Numbers

1. Radio frequencies/channels and telephone numbers in all cases shall be assigned by the decision of the Communications Regulatory Authority under the terms and conditions established in the procedure for the assignment and use of radio frequencies/channels and telephone numbers set forth by this Law and the Communications Regulatory Authority. The rights to use radio frequencies/channels and telephone numbers shall be granted in a manner that would ensure their effective use, control of their use, quality, accessibility and reliability of telecommunications networks and that would stimulate competition.

2. The Communications Regulatory Authority, acting in accordance with the international obligations, the Radio Regulations, and the National Radio Frequency Allocation Table shall assign radio frequencies/channels necessary for activities pertaining to national defence, security, maintaining public order, protection of the state border, civil aviation and safety of railway traffic and ensuring stable and reliable operation of the energy system, shall maintain a reserve of radio frequencies necessary for performing the functions of state institutions.

3. The Communications Regulatory Authority shall assign telephone numbers for the activities of state emergency services and the discharge of other functions of the State and its institutions.

4. The Communications Regulatory Authority shall perform the functions referred to in paragraphs 2 and 3 of this Article without applying the general procedure for the assignment of radio frequencies/channels and telephone numbers set forth by this Law.

5. The right to use radio frequencies/channels and telephone numbers shall be granted:

1) without separate authorisation when the right to use radio frequencies/channels is set forth in the legal acts of the Communications Regulatory Authority regulating the general terms and conditions for engaging in telecommunications activities or, where radio frequencies/channels are not used in telecommunications activities, when the Communications Regulatory Authority establishes that relevant frequencies/channels can be used without separate authorisation, the general terms and conditions for the use of corresponding frequencies/channels set forth by the Communications Regulatory Authority shall be compulsory;

2) upon receipt of authorisation from the Communications Regulatory Authority to use radio frequencies or telephone numbers.

6. The term for the right to use frequencies/channels and telephone numbers shall be established by the Communications Regulatory Authority taking into account the purpose of their use.

7. Persons who have the right to use radio frequencies and telephone numbers shall pay administrative charges to the Communications Regulatory Authority specified in Article 6, paragraph 7 of this Law..

Article 34. Issue of Authorisations to Use Radio Frequencies/Channels and Telephone Numbers

1. Where the legal acts of the Communications Regulatory Authority setting forth the general terms and conditions for engaging in telecommunications activities do not provide that relevant frequencies/channels may be used without an individual authorisation or when frequencies/channels are not used for telecommunications activities and the Communications Regulatory Authority has not established that relevant frequencies/channels may be used without an individual authorisation, a person, before starting to use radio frequencies/channels or telephone numbers, must file an application of a prescribed form to the Communications Regulatory Authority following the procedure established by it.

2. The Communications Regulatory Authority upon establishing that frequencies/channels may be assigned, shall announce the conclusion and inform of a possibility to lodge applications for the use of these frequencies/channels.

3. The Communications Regulatory Authority shall make public the information about the applications filed by persons for assignment to them of radio frequencies/channels and telephone numbers when the number of authorisations to use frequencies/channels and telephone numbers is restricted. The procedure for making the above information public shall be established by the Communications Regulatory Authority.

4. A person may start using frequencies/channels and telephone numbers from the date of issue of the authorisation unless otherwise provided in the authorisation.

5. When an undertaking files an application for using radio frequencies/channels or telephone numbers after its notification about the start of the relevant activity was registered by the Communications Regulatory Authority, it must file only an application for assignment to it of radio frequencies/channels or telephone numbers for use and certify that the information and documents submitted earlier, together with the notification to the Communications Regulatory Authority, have not been modified. Where changes occurred in the activities of an undertaking following the day of notification about the activity pursuant to the legal acts of the Communications Regulatory Authority setting forth the general terms and conditions for engaging in telecommunications activities, the undertaking must supply additional information when filing an application for being assigned radio frequencies/channels and telephone numbers for use.

6. A person wishing to use radio frequencies/channels shall provide to the Communications Regulatory Authority the information about his capacity to fulfil the obligations relating to the use of radio frequencies/channels. The Communications Regulatory Authority shall establish the scope of the necessary information and the procedure for providing it. The Communications Regulatory Authority shall have a right to refuse to issue an authorisation to use radio frequencies/channels to a person who has not provided such information or who has provided information which is not in conformity with the requirements set forth by the Communications Regulatory Authority.

7. The number of authorisations for using radio frequencies/channels shall not be limited, with the exception of cases when limitation is necessary to ensure an effective use of radio frequencies/channels. Restriction in the issue of authorisations for using radio frequencies shall be prohibited, with the exception of cases when it is necessary to ensure an efficient use of radio spectrum or to avoid radio disturbances between the telecommunications systems operating via radio waves and other, both satellite or terrestrial, technical systems and only when this is related to the shortage of the radio frequency spectrum and may be justified by the principle of proportionality.

8. The Communications Regulatory Authority, when it makes a decision to limit the number of authorisations for the use radio frequencies/channels, shall:

1) take into account the need to maximise the benefit to service users and stimulate the development of competition;

2) provide a possibility for all the parties concerned, including service users and consumers, to express their opinion in respect of any kind of restriction;

3) announce its decision to restrict the number of authorisations for use of radio frequencies/channels, specifying the reasons for such a restriction;

4) after establishing the procedure, inform about the possibility to file applications to be granted the right to use radio frequencies/channels;

5) review restrictions on a periodic basis or upon receipt of reasoned requests from the persons concerned.

9. Authorisations to use radio frequencies/channels and telephone numbers shall be issued on the basis of objective, transparent, non-discriminatory and proportional criteria. The Communications Regulatory Authority shall establish transparent procedures for the assignment of radio frequencies/channels and telephone numbers.

10. The decision to assign radio frequencies/channels and telephone numbers must be made, forwarded to the applicant and published within the time periods set forth by the Communications Regulatory Authority.

11. Persons who are being assigned or have been assigned radio frequencies/channels and telephone numbers shall pay to the Communications Regulatory Authority administrative charges specified in Article 6, paragraph 7.

12. The charges for the right granted to use radio frequencies/channels or telephone numbers which winners of a tender or auction undertake to pay shall be paid to the state budget according to the procedure laid down by legal acts.

Article 35. Issue of the Authorisation

Authorisations to use radio frequencies/channels and telephone numbers shall be issued:

- 1) directly to the applicant;
- 2) by tender;
- 3) by auction.

Article 36. Granting the Right to Use Radio Frequencies/Channels or Telephone Numbers Directly to the Applicant

1. The Communications Regulatory Authority shall have a right to issue an authorisation to use radio frequencies/channels and telephone numbers directly to the applicant if there is at least one of the following grounds:

1) the Communications Regulatory Authority does not make a decision to restrict the number of authorisations to use the requested radio frequencies/channels and does not decide that the telephone number is with exceptional economic value;

2) within the time period established by the Communications Regulatory Authority, after the public announcement about receiving a request to obtain radio frequencies/channels or telephone numbers, no other person applies for the same frequencies/channels or telephone numbers, or a sufficient number of them may be allocated to all the persons who have applied for them.

2. Where the Communications Regulatory Authority receives applications from several persons to assign to them radio frequencies/channels or telephone numbers and such resources cannot be assigned for use by several persons at the same time, radio frequencies/channels and telephone numbers shall be assigned for use by a public tender or an auction. The applications received at one and the same time shall be those applications which were filed within the time period established by the Communications Regulatory Authority after the date of the announcement about the receipt of the first application.

Article 37. Granting the Right to Use Radio Frequencies/Channels or Telephone Numbers by Tender

A tender for the assignment of radio frequencies/channels and telephone numbers for use shall be held according to the procedure under the terms and conditions of a public tender approved by the Communications Regulatory Authority in compliance with the requirements set forth by this Law. The terms and conditions of the tender must specify the qualifications, requirements for the tenderers, define the market where the radio frequencies/channels and telephone numbers will be used, and the terms and conditions for the use of radio frequencies/channels and telephone numbers. The terms and conditions of the tender shall specify the selection criteria of the winner. The criteria must be based on special knowledge and performance efficiency, suitability of operational plans for the provision of telecommunications networks and/or services, prices of the services to be provided, the timeframes for introducing the services on the market, the amount of investments and stimulation of effective competition. If a tender is held for assignment of a radio frequency, priority must be given to those tenderers that can ensure a larger service coverage area within a shorter time period within the frequency assigned for use.

Article 38. Granting the Right to Use Radio Frequencies/Channels or Telephone Numbers by Auction

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

2. The rules of auction must specify qualification requirements for the bidders, define the market where radio frequencies/channels and telephone numbers will be used, the conditions for the use of radio frequencies/channels and telephone numbers as well as the minimum amount of radio frequencies/channels and telephone numbers that must be purchased by a bidder.

Article 39. Refusal to Issue Authorisation

1. The Communications Regulatory Authority shall have a right to refuse to issue an authorisation to use radio frequencies/channels and telephone numbers, if:

- 1) no free radio frequencies/channels or telephone numbers are available;
- 2) the activity of the applicant does not meet the requirements set forth by this Law, the requirements of the tender or auction or the designation of radio frequency/channel or telephone number;
- 3) the applicant fails to provide the necessary documents or information;
- 4) the application does not meet the requirements set forth in legal acts;
- 5) the information and documents provided by the applicant are inaccurate or incorrect;
- 6) the applicant did not win the tender or auction held for the purpose of granting the right to use radio frequencies/channels or telephone numbers;
- 7) the applicant failed to pay, within the prescribed a time period, an appropriate administrative charge to the Communications Regulatory Authority.

2. Before making a decision to refuse to assign radio frequencies/channels or telephone numbers to a person, the Communications Regulatory Authority shall have a right to set a time period for a person to eliminate the circumstances preventing the Communications Regulatory Authority from making a positive decision. The Communications Regulatory Authority must inform the person about such a decision in writing, specifying the shortcomings to be rectified and the term for eliminating them. The requirement laid down in this paragraph shall not apply where the right to use radio

frequencies/channels or telephone numbers was granted by way of tendering or an auction procedure.

Article 40. Use of Radio Frequencies/Channels and Telephone Numbers

1. The Communications Regulatory Authority shall establish the regulations for the use of radio frequencies/channels and telephone numbers. The conditions set forth in the regulations for the use of radio frequencies/channels and telephone numbers and in the authorisations to use radio frequencies/channels or telephone numbers must be objectively grounded, taking account of the nature of the networks and/or services relating to the relevant radio frequencies/channels, non-discriminatory, transparent and proportionate.

2. The conditions set forth in the regulations for the use of radio frequencies/channels and authorisations to use radio frequencies/channels may pertain only to:

1) specification of the designation (type of service(s), radio service, network or technology), for which radio frequencies/channels are assigned;

2) an effective use of radio frequencies/channels;

3) technical and operational conditions in order to avoid radio disturbance and limit the electromagnetic fields harmful to the public, where such conditions different from the general conditions for engaging in telecommunications activities set forth by the Communications Regulatory Authority;

4) the maximum time period for the use of radio frequencies/channels;

5) administrative charges for the supervision of the use of radio frequencies/channels and payment of taxes and other contributions to the state budget;

6) any obligations of a person undertaken during tendering or auction;

7) obligations under appropriate international agreements and arrangements relating to the use of radio frequencies.

3. The conditions set forth in the regulations for the use of telephone numbers and authorisations to use telephone numbers may pertain only to:

1) specification of the designation/service for which telephone numbers are used;

2) an effective use of telephone numbers;

3) obligations to make information about the subscribers publicly available;

4) the maximum term for the use of telephone number;

5) administrative charges for the supervision of the use of telephone numbers, taxes and contributions to the state budget;

6) any obligations of a person undertaken by way of tendering or an auction;

7) obligations under appropriate international agreements and arrangements relating to the use of telephone numbers.

4. The Communications Regulatory Authority shall have a right, upon a prior six-months notice to the user of radio frequency/channel or telephone number, to replace the assigned radio frequency/channel or telephone number with another radio frequency/channel or telephone number intended for the same purpose, or, upon a prior twelve-months notice to the users of radio frequencies/channels or telephone numbers to withdraw the assignment of the radio frequencies/channels or telephone numbers, where this is required according to international and European Union commitments, or where the National Radio Frequency Allocation Table or the National Telephone Numbering Plan is undergoing a change.

5. An undertaking which has lost its right to engage in telecommunications activities shall also lose his right to use relevant radio frequencies/channels and telephone numbers.

Article 41. The Change of the Conditions for the Use of Radio Frequencies/Channels and Telephone Numbers

The rights, conditions and procedures pertaining to the use of radio frequencies/channels and telephone numbers shall be revised only in objectively justifiable cases. The interested parties, including service users and consumers, shall be duly informed about the intended revision and shall be given a possibility within a reasonable time period which, with the exception of extraordinary

circumstances, shall be at least 28 days, to submit their comments on the revisions proposed.

CHAPTER SIX MANAGEMENT OF RADIO COMMUNICATION

Article 42. Import, Manufacturing, Sale and Use of Equipment, Devices and Terminal Equipment

1. The procedure and requirements for the import, manufacturing, sale and use of the radio equipment and terminal equipment shall be established in the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment approved by the Communications Regulatory Authority.

2. The procedure for the use of the equipment used for industrial, medical and scientific needs, i.e., the equipment which generates and uses radio wave energy and is intended for industrial, medical, scientific, domestic and similar applications, with the exception of telecommunications purposes, shall be established and approved by the Communications Regulatory Authority.

Article 43. Responsibilities of the Owner or User of the Equipment and Devices

1. The owner or user of the equipment and devices must allow inspectors from the Communications Regulatory Authority to inspect the equipment and devices on site in a manner prescribed by law.

2. In cases specified by Article 57 of this Law, the owner or user of the equipment and devices must comply with the instructions of the Government or the authority designated by it.

Article 44. Confidentiality of Radio Communication

1. It shall be prohibited to disclose, disseminate or use the content of a non-public radio message and report about its existence, with the exception of cases specified by the Law of the Republic of Lithuania on Operational Activities, the Codes of Criminal Procedure and Civil Procedure and other laws. It shall be

prohibited to transmit via unscrambled radio communication channels information constituting a state or official secret.

2. There shall be no breach of confidentiality of radio communication if the message is received as radio interference and is reported to the Communications Regulatory Authority for the purpose of its identification, nor shall radio monitoring by the Communications Regulatory Authority be regarded as a breach of confidentiality of radio communication. The staff of the Communications Regulatory Authority shall be prohibited to disclose, disseminate or use the content of the received non-public radio messages or report about the existence of such a message.

3. Persons who are in breach of this Article shall be held liable following the procedure prescribed by law.

Article 45. Radio Monitoring

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

2. Protection of fixed radio monitoring stations of the Communications Regulatory Authority from powerful electromagnetic fields caused by radio transmitters operating in their environment shall be effected according to the procedure established by the Communications Regulatory Authority

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

Article 46. Elimination of Radio Interference

1. Radio interference shall be eliminated by the owner or user of the equipment that caused it. If interference occurs due to the alterations of technical parameters of a radio receiver or a receiving equipment, the interference shall be eliminated by the owner or user of said receiver or the equipment. The owner or user of the equipment and devices that caused radio interference must eliminate or reduce the level of radio interference when instructed to do so by the Communications Regulatory Authority. The procedure for elimination of radio interference, where radiation parameters of devices causing it and receiving it are in conformity with the requirements set forth by legal acts, shall be established by the Communications Regulatory Authority.

2. When carrying out search of interference, operators of telecommunications networks and other persons must provide the necessary information to the Communications Regulatory Authority and ensure unrestricted access to the likely sources of interference.

3. Persons whose actions as specified in paragraph 1 of this Article cause damage must compensate for it in the manner prescribed by law.

Article 47. Conformity Assessment of Telecommunications Technical Equipment

The conformity of the equipment, devices and terminal equipment to the obligatory requirements shall be assessed in the manner prescribed by the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment as well as the laws and other legal acts.

Article 48. Activities of Radio Amateurs and Other Users of Radio Stations

The procedure for granting a right to engage in the activities of radio amateurs and other users of radio stations and conditions for the engagement in these activities, the procedure and conditions for the issue of licences of radio amateurs and other users of radio stations shall be established by the Communications Regulatory Authority.

CHAPTER SEVEN

PROCESSING OF PERSONAL DATA AND PROTECTION OF PRIVACY

Article 49. Scope

1. Articles 49-56 of this Law shall aim at protection of the right to privacy in connection with the processing of personal data in the field of telecommunications, when providing public telecommunications services in public telecommunications network and at preventing restriction of a free movement of such data, telecommunications equipment and services in implementing international obligations relating to the EU accession.

2. Provisions of Articles 55 and 56 shall apply to subscriber lines connected to digital exchanges and, in so far as it is technically possible and does not require investments disproportionate to the objective sought, to subscriber lines connected to analogue exchanges.

3. Supervision of processing of personal data in telecommunications shall be carried out in compliance with the laws regulating processing of personal data and protection of privacy and other legal acts.

4. Articles 53 and 54 of this Law shall apply to subscribers who are natural persons.

Article 50. Security of Public Telecommunications Services

1. Providers of public telecommunications services must take appropriate technical and organisational measures in order to safeguard security of the services provided by them and, where necessary, in conjunction with the operators of public telecommunications networks take the same measures for ensuring security of public telecommunications networks. Said measures must ensure a level of security appropriate to the risk presented.

2. In case of a particular risk of a breach of the public telecommunications network or a part thereof, the provider of public telecommunications services must inform the subscribers about such risk and about all possible actions needed for elimination of the risk, including the costs involved.

Article 51. Confidentiality of Communication

1. Persons who are not actual users of telecommunications services shall be prohibited, without a consent of the interested factual users of telecommunications services, to disclose the contents of telephone conversations, a message, other information communicated via telecommunications networks or to provide access to such information. Persons who are not actual users of telecommunications services shall be prohibited, without a prior consent of the appropriate actual users of telecommunications services, to listen to, record, store or intercept in any other way, tap the communication, except in cases where this is permissible under Article 57 of this Law.

2. The provisions of paragraph 1 of this Article shall not apply to a lawful recording of the communication which is effected in the course of a lawful business practice for the purpose of providing evidence of a commercial transaction or any other business communication.

Article 52. Processing of Traffic and Billing

1. Traffic data relating to the subscriber of public telecommunications services and an actual user of telecommunications services processed for the purposes of establishing calls and stored by the operator of the public telecommunications network and/or the provider of public telecommunications services must be erased or altered in such a way that, immediately after the end of the call, it would not be possible to identify directly or indirectly the subscriber or the actual user of telecommunications services, except in the cases set out in paragraphs 2, 3, 4 and 5 of this Article.

2. The number of identification of the subscriber station, the subscriber's address and the type of the station, total number of units charged for the accounting period, the number of the subscriber called, the type of calls, the starting time and duration of the calls made and/or the volume of data transmitted, date of the call or the service as well as any other information relating to the payment, including advance payment, payment by instalments,

disconnection and reminders may be processed for the purpose of keeping record of the services used by the subscriber and interconnection payments. This data may not be processed longer than until the end of the time period within which the bill may be lawfully contested or the payment may be pursued.

3. The provider of public telecommunications service, for the purposes of marketing of its own service, may process the data referred to in paragraph 2 of this Article only subject to the consent of the subscriber.

4. Only the persons authorised by the operators of public telecommunications networks and by the providers of public telecommunications services, handling billing, managing traffic, subscriber enquiries, dealing with the violations and fraud and engaged in marketing of the services provided by the provider of telecommunications service shall have the right to process traffic and billing data. The data processed shall be restricted to what is necessary for the purposes of such activities.

5. Competent authorities shall have a right to obtain information about traffic and billing data for the purposes of dispute settlement in accordance with the conditions and procedure provided by legal acts.

6. An itemised bill for the telecommunications services provided shall be issued only at the subscriber's request.

Article 53. Directories of Subscribers

1. The public telephone service communications providers shall provide information about the telephone numbers of the subscribers, international and long distance codes, the services provided, conditions attached to them and their tariffs. Printed or publicly available electronic telephone directories and the directory enquiry services may give only the name, the surname, the number and the address of the subscriber unless the subscriber gives an express consent to list additional personal data about him. The subscriber shall have a right :

1) at his request, to be omitted , free of charge, in the printed or electronic directories;

2) not to have his or her personal data used for the purposes of direct marketing;

3) have his or her full address omitted in part in the printed or electronic directories and directory enquiry services.

2. Search for personal data according to the telephone number of the subscriber must not be permitted in directories available to the public. It shall be prohibited to provide to third parties the personal data of the subscriber according to his telephone number unless the laws provide otherwise.

3. Public telephone communication operators shall, at least year biannually, publish and distribute updated directories of the subscribers of the public telecommunications network.

Article 54. Direct Marketing

It shall be permitted to use telecommunications services for the purposes of direct marketing only subject to a prior consent of the subscriber.

Article 55. Automatic Call Forwarding

The providers of public telecommunications services must ensure that the subscribers could stop, free of charge and via a simple means, an automatic forwarding of the calls of other persons to the terminal equipment of the subscriber.

Article 56. Presentation of the Calling and Connected Line Identification

1. Where presentation of the calling-line identification is possible, the calling actual user of telecommunications services shall have a possibility, free of charge and by simple means, to eliminate the presentation of the calling-line identification on a per-call basis. The calling subscriber must have such a possibility in respect on a per-line basis.

2. Where the presentation of calling-line identification is possible, communication line from which a call is being made may be identified, the

called subscriber must have a possibility , free of charge and via a simple means, to prevent the possibility to presentation of the calling-line identification.

3. Where the presentation of calling-line identification is possible, and where the identification data are presented prior to the call being established, the called subscriber must have a possibility to reject the incoming call, free of charge and via a simple means, where the presentation of the calling line identification has been eliminated by the calling actual user of services or subscriber.

4. Where the presentation of connected line identification is possible, the called subscriber must have a possibility to eliminate, free of charge and via a simple means, the presentation of the connected line identification to the calling actual user of the service.

5. Where the presentation of calling and connected line identification is possible, providers of public telecommunications services must inform the public thereof and of the possibilities set out in paragraphs 1, 2, 3 and 4 of this Article.

6. The Government shall establish a procedure defining the ways in which the providers of public telecommunications service and/or operators of public telecommunications networks may override elimination of the presentation of calling-line identification:

1) upon application of a subscriber requesting the tracing of malicious or nuisance calls;

2) on a per-line basis for institutions dealing with emergency calls, including law enforcement agencies, ambulance services and fire brigades, for the purpose of answering such calls.

Article 57. Extraordinary Circumstances

1. Undertakings must participate in the developing of a scheme of communication arrangements in the events of extraordinary or emergency situations and ensure its effective functioning.

2. In cases of *force majeure* and in emergency situations, in order to prepare for general mobilisation, national defence, and to ensure security and public order, the Government or the authority designated by it may give mandatory instructions, tasks and orders to telecommunications operators and telecommunications service providers, in the manner prescribed by the laws and other legal acts, to protect and maintain strategic telecommunications networks, and, if necessary, limit public access to telecommunications networks.

3. Telecommunications equipment located in a zone of potential radiation must be in conformity with the requirements established by the Communications Regulatory Authority that must be followed by all telecommunications operators and service providers possessing such equipment.

4. Telecommunications operators and telecommunications service providers must, in the manner prescribed by legal acts, record telecommunications events and their participants, at their own expense and with their own equipment ensure and provide continuous support to the possibility for entities of operational activities, inquiry and investigation bodies to control, in the manner prescribed by the law, and according to the warrant issued by the court, the content of information transmitted via telecommunications networks, as well as in accordance with the procedure established by the Government provide, free-of-charge, the information specified by the Government for crime prevention, investigation and detection to the entities of operative activities, inquiry and investigation bodies on the targets of operative activities as well as other subscribers needed for investigation and their telecommunications. Where entities of operative activities require information additional to that defined by the Government, they shall compensate to telecommunications operators and telecommunications service providers the requisite costs of providing such information.

5. The authority designated by the Government - an entity of operational activities - shall make arrangements and provide, in the manner prescribed by the Government, technical possibilities for each entity of operative activities to independently monitor the content of information transmitted via telecommunications networks.

CHAPTER EIGHT
SUPERVISION OF COMPLIANCE WITH THE LAW

Article 58. Procedure of Supervision of Compliance with the Law

1. The Communications Regulatory Authority shall have a right to request that telecommunications service providers and telecommunications operators or other persons having the right to use radio frequencies/channels and telephone numbers provide information necessary for checking compliance of an undertaking with legal acts setting out conditions for the engagement in telecommunications activities and conditions for the use of radio frequencies/channels and numbers as well as with his obligations imposed on him as an undertaking with significant market power or designated to provide universal services. The Communications Regulatory Authority shall establish a procedure for provision of information.

2. Having established non-compliance of an undertaking with one or more provisions of the legal acts setting forth conditions for the engagement in telecommunications activities and conditions for the use of radio frequencies/channels and telephone numbers or non-compliance with one or more obligations imposed on him as an undertaking with significant market power or designated to provide universal services, the Communications Regulatory Authority shall inform an undertaking of its conclusions and provide an undertaking with an opportunity to express his views or eliminate violations within:

- 1) one month after the date of mailing such a communication;
- 2) a shorter time period approved of by an undertaking or established by the Communications Regulatory Authority in the event of a repeated infringement;
- 3) a longer time period established by the Communications Regulatory Authority.

3. Where an undertaking fails to eliminate infringements within the term specified in paragraph 2, the Communications Regulatory Authority shall be

entitled, within two months after the date when the first communication about an infringement was sent, to apply remedies ensuring compliance with legal acts, including the established economic sanctions. The Communications Regulatory Authority shall notify an undertaking about the remedies taken and reasons for taking them within 7 days after the date when the decision to apply those remedies was made, by establishing a reasonable time period for an undertaking to comply with them.

4. In the event of a substantial or repeated breach of provisions of the legal acts setting forth conditions for the engagement in telecommunications activities and conditions for the use of radio frequencies/channels and telephone numbers or non-compliance with one or more obligations imposed on him as an undertaking with significant market power or designated to provide universal services and where the remedies taken pursuant to paragraph 3 were insufficient to eliminate the breach, the Communications Regulatory Authority shall have a right to prohibit an undertaking from providing telecommunications networks or services or to suspend its right to use radio frequencies/channels and/or telephone numbers.

5. Upon receiving evidence of violation of provisions of the legal acts setting forth conditions for the engagement in telecommunications activities and conditions for the use of radio frequencies/channels and telephone numbers or non-compliance with one or more obligations imposed on him as an undertaking with significant market power or designated to provide universal services, when such violations pose direct danger to public security and health or could cause major economic or operational problems to other providers or telecommunications networks or service users or could restrict freedom of choice of services to the major part of service users, the Communications Regulatory Authority shall have a right to take urgent temporary measures to rectify the situation before making its final decision. After taking such measures, the Communications Regulatory Authority shall provide the undertaking concerned an opportunity to express his views and suggest measures.

6. The provisions of this Article shall also apply *mutatis mutandis* to persons using radio frequencies/channels and telephone numbers who are not yet

engaged in telecommunications activities and to other persons who have violated the provisions of this Law.

7. Persons who have violated the requirements of this Law shall be held liable under law.

Article 59. Provision of Information

1. The Communications Regulatory Authority, pursuant to the provisions of the legal acts setting forth conditions for the engagement in telecommunications activities and conditions for the use of radio frequencies/channels and telephone numbers or due to specific obligations imposed on them as undertakings with significant market power or designated to provide universal services, shall have a right to request from the undertakings who are engaged in telecommunications activities only such information which is necessary to check compliance with this Law, assess procedures for granting the right to use radio frequencies/channels and telephone numbers and announce reviews of service quality and price, for clearly defined statistic purposes and market research as well as for the performance of other duties and functions of the Communications Regulatory Authority.

2. When requesting that information be provided, the Communications Regulatory Authority shall inform undertakings about the purposes for which the information will be used.

3. The Communications Regulatory Authority shall have a right to request that persons using radio frequencies/channels and telephone numbers who are not engaged in telecommunications activities, provide the information required by the Communications Regulatory Authority.

Article 60. Economic Sanctions and Their Extent

1. The extent of economic sanctions imposed on undertakings shall be established taking due account of:

- 1) the scope of damage caused by the violation;
- 2) duration of the violation;

- 3) circumstances extenuating or aggravating the liability of an undertaking;
- 4) the income received by the undertaking as a result of the violation;
- 5) the extent of the influence of each undertaking on the commission of the violation when several undertakings are involved in the commission of the violation.

2. Extenuating circumstances shall consist in prevention by the infringing undertakings of the negative consequences arising due to the violation, assistance to the Communications Regulatory Authority during the investigation of the violation, and compensation of the losses or elimination of the damage caused.

3. Aggravating circumstances shall consist in the interference by the undertakings with the investigation, concealing the committed violation, proceeding with the commission of the violation, ignoring the obligation imposed by the Communications Regulatory Authority to cease the illegitimate actions or a repeated commission of the violation for which the sanctions prescribed by this Law have already been imposed on the undertakings.

4. When determining the extent of the economic sanction to be imposed, the Communications Regulatory Authority may acknowledge other circumstances not specified herein as extenuating circumstances.

Article 61. Execution of Fines

1. An undertaking must pay the fine imposed upon him as an economic sanction as an economic sanction imposed by the Communications Regulatory Authority to the state budget within three months after the date of receipt of the resolution.

2. Where there is a reasoned request of an undertaking, the payment of the fine imposed or its part may be deferred for up to six months at the decision of the Communications Regulatory Authority.

3. Where an undertaking fails to pay the fine, it shall be enforced and paid into the state budget. The decision of the Communications Regulatory Authority shall be submitted for enforcement to a court bailiff following the procedure prescribed by the Code of Civil Procedure.

Article 62. Liability for Violations of this Law and other Regulations.

Dispute Settlement

1. Persons who have violated this Law and other regulations relating to telecommunications shall be held liable in accordance with the procedure prescribed by this Law and other laws.

2. The Communications Regulatory Authority shall have a right to impose the sanctions set out in this Law and the Code of Administrative Offences for violation of this Law and other legal acts.

3. The Communications Regulatory Authority shall settle disputes regarding the joint use of conduits, cable ducts, collectors, towers and masts, also disputes in respect of the terms and conditions of contracts or the amount of charges as well as other disputes between the telecommunications service users and service providers, and also other disputes in cases specified by this Law. Where the parties to the dispute disagree with the decision of the Communications Regulatory Authority, they shall have a right to appeal to court according to the procedure prescribed by the law.

4. The settlement of disputes by the Communications Regulatory Authority shall be public, with the exception of cases when a closed hearing is necessary to protect state, official or commercial secrets or to ensure an individual's right to the inviolability of private life.

5. The Communications Regulatory Authority shall impose the following economic sanctions on a person who fails to meet the requirements set out in this Law:

1) for violation of the conditions of telecommunications activities, conditions for the use of radio frequencies/channels or telephone numbers, the rights of consumers and users, non-compliance with the obligations imposed on an undertaking with significant market power or designated to provide universal services also for non-compliance with the decisions of the Communications Regulatory Authority adopted after resolution of a dispute or violation of the conditions of the Technical Regulations of Radio Equipment and Telecommunications Terminal Equipment— a fine of up to 3 per cent of the

annual turnover of telecommunications activities, but not more than 300, 000 LT, and in the event of a repeated violation – of up to 5 per cent of the annual turnover of telecommunications activities;

2) in the event of non-compliance with the obligations of the Communications Regulatory Authority to terminate the illegitimate activity or failure to provide information according to the procedure set out in this Law – a fine amounting to 5, 000 LT for each day of commission of/proceeding with the violation;

6. The damage caused to undertakings by unlawful actions of the institutions regulating telecommunications activities or their officials shall be compensated in accordance with the procedure prescribed by law.

CHAPTER NINE FINAL PROVISIONS

Article 63. Continuity

1. Undertakings shall have a right to proceed with the activities provided in licences or authorisations issued before the date of entry into force of this Law to the extent that it does not contradict the provisions of this Law.

2. Undertakings holding licences or authorisations to engage in telecommunications activities at the time of entry into force of this Law shall have a right, within two months after the date of entry into force of this Law, to make a statement to the Communications Regulatory Authority that the provisions of this Law, in comparison with the valid licences and/or authorisations, will limit the rights of those undertakings. Having established that the circumstances pointed out by an undertaking are true and that they would cause unreasonable and disproportionate loss to an undertaking, the Communications Regulatory Authority shall have a right to introduce a transitional period not longer than 9 months, after the entry into force of this Law, provided that this will not affect the rights of other undertakings, by specifying which obligations provided in the Law will not be applicable to specific undertakings and what rights shall be retained.”

Article 2. Entry into Force

1. This Law shall enter into force on January 1, 2003, except for Articles 3 and 4.

Article 3. Implementation

1. The Government shall submit, by October 1, 2002, to the Seimas draft laws amending the laws related to the implementation of this Law.

2. The Director of the Communications Regulatory Authority and members of the Council of the Communications Regulatory Authority appointed prior to the entry into force of this Law, shall continue in their office until the expiration of its term unless they are dismissed earlier, on the grounds specified in Article 6, paragraph 5 of the Law set out in Article 1 of this Law.

3. The Communications Regulatory Authority shall have a right, by the date specified in Article 2 of this Law, to adopt legal acts for the implementation of the Law, including individual legal acts (specifying undertakings with significant market power, and other) provided that they do not enter into force before the date indicated in Article 2.

Article 4. Proposal to the Government

It shall be proposed to the Government, to draft and approve, by January 1, 2003, a conception of the Law on Electronic Communications of the Republic of Lithuania, taking into account the new regulatory framework for telecommunications/electronic communications of the European Union.

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

PRESIDENT OF THE REPUBLIC

VALDAS ADAMKUS