

Act LXXII ON TELECOMMUNICATIONS

• CHAPTER I. INTRODUCTORY PROVISIONS	1
• CHAPTER II. TELECOMMUNICATIONS SERVICES	2
• CHAPTER III. SPECIFIC REGULATIONS RELATED TO TELECOMMUNICATIONS SERVICE CONTRACTS	4
• CHAPTER IV. COOPERATION BETWEEN TELECOMMUNICATION NETWORKS	7
• CHAPTER V. REGULATORY PROCEDURES	8
• CHAPTER VI. PROTECTION OF DATA AND CONFIDENTIALITY	11
• CHAPTER VI. RIGHTS PERTAINING TO THE USE OF REAL PROPERTY	11
• CHAPTER VIII. PROTECTION OF TELECOMMUNICATIONS	13
• CHAPTER IX. DISCLOSURE OF DATA	14
• CHAPTER X. STATE FUNCTIONS IN CONNECTION WITH TELECOMMUNICATIONS	14
• TELECOMMUNICATIONS DEFINITIONS FOR THE PURPOSES OF THIS ACT	18

In order to meet telecommunications related demands, develop effective and economically feasible advanced telecommunications services, and promote an enterprising and competitive atmosphere in correspondence with international rules and regulations, the Parliament hereby passes the following Act:

CHAPTER I. INTRODUCTORY PROVISIONS ➔

Section 1

(1) This Act is intended to prescribe the method of and conditions for providing telecommunications services, the rights and obligations of those involved in telecommunications services (service providers, operators, owners, users and subscribers), the requirements pertaining to the design, implementation and operation of the telecommunication network, the conditions for the use of telecommunication devices and equipment, the provisions related to the protection of telecommunications, and the duties of the state in connection with telecommunications.

(2) Definitions related to telecommunications are contained in the Schedule of this Act.

Section 2

(1) A private or special telecommunication network to be used for own purposes, with the exception of radio-communication networks also containing radio-communication equipment that are subject to licensing requirement, may be freely established by anyone within the boundaries of the proprietor's premises.

(2) A telecommunication network for private or special purposes, extending beyond the boundaries of the proprietor's premises, may also be established in accordance with the legal regulations specified in Subsection (4) of Section 19 of this Act.

(3) The Government shall establish the regulations on private telecommunication networks.

CHAPTER II. TELECOMMUNICATIONS SERVICES ➔

Section 3

(1) From the sphere of telecommunications services:

public telephone services;

public purpose mobile cellular telephone services;

nationwide public purpose paging services;

nationwide and regional distribution and broadcasting of public service radio and television programs, with the exception of specialized programs

may be provided by a concession company established for the purpose of telecommunications or by an economic organization established for this purpose by the state or with state majority ownership, operating in accordance with the concession requirements prescribed for concession companies established for the purpose of telecommunications (hereinafter jointly referred to as "telecommunication organization").

(2) If a telecommunications organization is licensed for the provision of the service described in Paragraph b) of Subsection (1), such organization may obtain entitlement for the same service to be provided independently solely by way of tender. Such activities may be performed by such organization's existing concession company upon having its concession contract amended and supplemented according to the conditions set forth in the new concession tender.

(3) With the exception of telecommunications services subject to the concession requirements defined in Subsection (1), anyone can provide public telecommunications services on the basis of an official service license.

(4) Commencement of the provision of non-public services shall be reported by the service provider to the communications authority.

Section 4

(1) The Minister of Transportation, Communications and Water Management (hereinafter referred to as the "Minister") is delegated to invite concession tenders for telecommunications services.

(2) The announcement of tenders shall include the following requirements:

the extent of telecommunications service coverage;

the improvement of profitability of telecommunications organizations operating inefficiently through no fault of their own.

(3) Local governments may also initiate the announcement of concession tenders for public telephone services for the primary zone under its area of full or partial competence, if justified by the development of the telecommunications network or by the improvement of the quality of services. The Minister shall pass a decision regarding the tender announcement within ninety days, and shall invite the concession tender within a month if the initiative is accepted. The tender must be invited within ninety days if so recommended by more than half of the local governments having competence over the primary zone, and if said local governments assume to cover the expenses of the tender procedure, should it be insolvent.

(4) Prior to the invitation of the tender the Minister shall publicly request the opinion of consumer and professional interest representation organizations, and of the local governments concerned regarding the proposed tender conditions.

(5) The procedure described in Subsection (4) shall also be completed in the case of any amendment of the concession contract (extension of its term).

(6) The Minister shall establish a committee for the evaluation of bids. The Minister shall also establish in a decree the detailed rules of the procedure concerning the invitation and evaluation of concession tenders, the conditions of the composition and work of the committee - including the option for representation of the local governments concerned. Furthermore the Minister shall determine the fee of the procedure in agreement with the Minister of Finance.

Section 5

(1) The tender invitation and the special concession contracts concerning the services for a specific area that are subject to concession requirements shall stipulate, above and beyond the requirements of the provisions of Act XVI of 1991 on Concessions, the following:

the scheduled capacity, quality, volume and technical requirements of the service, and the terms of cooperation with other telecommunications service provider(s);

terms relating to the concession fee;

the method of establishing the service tariffs and the conditions for modifying them, provided it is not stipulated by law;

the geographical area where the activity is carried out (the entire area of the country, counties, settlements or sections thereof);

the Minister's right to review, and to modify the contract periodically, under the conditions as stipulated in the contract and in accordance with the general regulations on contracts, on the grounds of national defense, public safety or national security, or in the interest of the consumers, or to meet development requirements, and international obligations assumed in the meantime;

description of all laws, which prescribe the terms of fulfillment of the contract.

(2) The document of foundation or other instrument of constitution shall duly contain the

provisions of Paragraphs a), c) and d) of Subsection (1) above.

(3) The concession contract may be extended once by one half of its original duration, without an invitation to tender.

(4) In addition to the activities included in Subsection (1) of Section 3, a telecommunication organization may perform:

telecommunications services included in the List of Services (SZJ);

marketing, sale, maintenance and repair of products for telecommunications and information technology;

computer application services;

metrology and security services;

general technical development services;

telecommunications research and experimental development;

project management and building maintenance, general contracting;

telecommunications training and other education activities.

Section 6

CHAPTER III. SPECIFIC REGULATIONS RELATED TO TELECOMMUNICATIONS SERVICE CONTRACTS ➔

NETWORK CONTRACT

Section 7

(1) Public telecommunications service providers shall be subject to an obligation to conclude a contract if receiving an offer for the interconnection of telecommunications networks for the purpose of providing public telecommunications services.

(2) Network contracts shall be concluded in writing. In the network contract, the network service provider and the user shall stipulate

the purpose of the network contract,

the location of the network service access point (place of delivery) if such location is not prescribed by legal regulation or standard, and furthermore

the conditions of traffic and technical cooperation between the telecommunications networks.

(3) The Government shall establish the conditions for the interconnection of public

telecommunications networks with each other or with other telecommunications networks, and the interconnection of different telecommunications networks in a decree.

(4) A declaration issued by the user stating that the signal, sign, text, image or sound he desires to transmit via the telecommunications service provider is the product of an activity for which he is licensed, in accordance with the provisions of legal regulations and international agreements, shall be attached to the network contract.

SUBSCRIBER CONTRACT

Section 8

(1) Based on the subscriber contract, the service provider shall establish, within no more than 30 days, a permanent or mobile service access point connected to its network to enable the subscriber to use the telecommunications services provided by the network at any time during the contract period.

(2) The public service provider shall be under obligation, with the exceptions defined in Subsection (3), to conclude a subscriber contract for providing public telecommunications services.

(3) The service provider shall be relieved from the contracting obligation prescribed in Subsection (2), if:

the subscriber has past due payments, in connection with previous telecommunication services from the service provider, or

the previous subscriber contract has been terminated by the service provider due to the fault of the subscriber [Subsections (1), (2) and (4) of Section 12] within a period of less than one year.

Section 9

(1) The Minister shall establish in a decree the conditions of subscriber contracts pertaining to user protection and service quality.

(2) Telecommunications organizations shall submit their business policies, containing general contract conditions, to the Communication Authority for approval at least 45 days prior to the commencement of providing services. The Communication Authority, with due consideration of the opinion of the Consumer Protection Agency, shall decide within 30 days regarding the approval of such business policy. Should the Communication Authority fail to adopt a resolution within the deadline specified, the business policy shall be considered to have been approved.

(3) Telecommunications organizations shall publish their business policies and the applicable tariffs for the services in such a manner so as to be accessible to the subscribers.

(4) The Government shall establish in a decree the basic rights and obligations of the parties to be included in the subscriber contract.

Section 10

(1) Offers for the conclusion of a public service subscriber contract shall be made in writing.

(2) The public service provider, if unable to establish the service access point as described in Subsection (1) of Section 8 for the applicant for reasons attributable to the service provider, shall register the application according to the rules of ranking established by a Government Decree in agreement with the Telecommunication Representative Forum and in harmony with the concession contract, and shall state the date for concluding the subscriber contract.

(3) Any subscriber contract concluded by eluding the rules of ranking shall be null and void.

Section 11

(1) Service providers shall be liable for any loss in value in the subscribers' property due to late or insufficient fulfillment of the subscriber contract concluded for services delivered on a public telecommunication network.

(2) Public service providers shall be liable to pay a penalty for falling behind the deadline specified for filing the statement regarding the time of contracting and/or for the acceptance of an application to conclude a contract, or for failure to establish the access point in due time. The amount of such penalty shall be one third of the monthly subscriber's fee for each day of delay.

(3) If the fulfillment of a subscriber contract is different from what is set forth in the technical requirements specified by the Minister, the amount of the penalty shall be one third of the monthly subscriber's fee for each day.

Section 12

(1) A public service provider may cancel the subscriber contract effective immediately 15 days after the notice described in Subsection (3) was issued, if the subscriber:

uses the service equipment or the service provider's network in a way not in compliance with the provisions of the contract; or if alters it or interconnects it without authorization with other equipment;

impedes inspection, as set forth in the contract, of the equipment used for the service.

(2) A public service provider may cancel the subscriber contract effective immediately 15 days after the notice described in Subsection (3) was issued, if

the subscriber prevents the service equipment to receive calls;

the traffic volume of the subscriber's service equipment permanently and substantially exceeds the capacity indicated in the specifications and fails to requisition additional equipment to be installed regardless of the service provider's warning;

the subscriber obstructs maintenance work on the telephone exchange or data transmission equipment or fails to provide for replacement or repair of such equipment as prescribed in the specifications.

(3) The service provider shall issue a written warning to the subscriber to end the breach of contract, with a deadline of at least fifteen days, prior to canceling the contract.

(4) In the event of non-payment of service charges, the service provider shall be entitled to cancel the subscriber contract with a 15-day cancellation notice upon the expiration of the 30-day deadline to remit such past due payment.

(5) In the event of a subscriber disagreeing with the amount of service charges invoiced by the service provider, the service provider shall be liable to present sufficient proof to substantiate said service charges.

(6) The term of limitation for claims arising from a public service subscriber contract shall be one year.

Section 13

(1) Should the fulfillment of the subscriber contract become temporarily interrupted or the service is suspended, the subscriber shall have no obligation to pay any service fee for such period.

(2) The fulfillment of the subscriber contract may also be suspended if so requested by the subscriber. The detailed conditions of such suspension shall be prescribed in the business policies.

Section 14

(1) The services of all public telephone stations located in public areas, at public roads, in public buildings, in post offices or in commercial shops, may be used by anyone upon payment of a specific fee.

(2) Having a public telephone station established and installed may be initiated by anyone. A certain number of public telephone stations, as determined in the concession contract, shall be installed so as to also accommodate hearing-impaired and disabled persons. A request for the installation of a public telephone station for the purpose of safety of life and of property may not be refused by the service provider if the customer or the local government concerned assumes to cover the costs of installation of such station.

(3) The service provider shall be required to keep public telephone stations serviceable (in good operational order) at all times.

Section 15

(1) Based on a contract to provide telegraph services, the service provider shall forward the messages taken from customers to the appropriate destinations by way of a telecommunications network and the postal service provider, or by other means. Providers of public telecommunications services shall be under contracting obligation to provide telegraph services, or to participate in the provision of such services.

(2) The Minister shall prescribe the conditions for providing telegraph services in a decree.

CHAPTER IV. COOPERATION BETWEEN TELECOMMUNICATION NETWORKS ➔

Section 16

The various telecommunication networks shall be implemented and operated on the basis of uniform technical conditions so as to allow, in the cases where interconnection is prescribed by law, the creation of a network suitable for interconnection by the installation of appropriate units (network components, fixtures, equipment, etc.), the creation of a network capable of interconnection in the cases where such connection is prescribed by law.

Section 17

(1) In order to ensure coordination between telecommunications networks as specified in Section 16, the Minister shall prescribe the regulations concerning basic technical plans in a decree.

(2) Prior to the introduction and application of the technical plans, the Minister shall request the opinion of the Telecommunication Engineering Qualification Committee.

(3) The Telecommunication Engineering Qualification Committee shall be established by telecommunications service providers, the founders of telecommunications network and the manufacturers of telecommunications equipment in cooperation with the competent ministers.

Section 18

(1) In the interest of a consolidated national public telecommunications network, telecommunications service providers shall cooperate in the establishment, operation, modification and dissolution of networks. Such cooperation obligation shall include:

the mutual provision of information and the disclosure of data regarding cooperation according to Section 32;

the measurements related to operation;

the coordination of maintenance systems, and

the elimination of any malfunction resulting in the interruption of services.

(2) The obligation of service providers described in Paragraph a) of Subsection (1) shall also apply in respect to any new service provider entering the market.

CHAPTER V. REGULATORY PROCEDURES ➔

Section 19

(1) The regulatory functions related to telecommunications shall be performed by an integrated state administration organization working under the control and supervision of the Minister, with the Communications Authority acting as its central organ, and local agencies serving as regional communications authorities (hereinafter jointly referred to as "authority").

(2) The sphere of duties, jurisdiction and competence of the authority shall be established by the Government.

(3) Concerning the proceedings of the authority, the provisions of Act IV of 1957 on the General Rules of State Administration Procedures shall be observed.

(4) The Minister shall, in a decree, establish

the conditions of implementation, commissioning, modification, termination of telecommunications structures (exchanges), technical connections of telecommunications networks, as well as the pre-requisites for the approval of terminal models connected directly or indirectly to public telecommunications networks,

the conditions for the regulatory licensing of the technical requirements of network and subscriber access points, the procedures therefor, and the procedural fees for regulatory activities defined in Paragraphs a) and b), in agreement with the Minister of Finance.

Section 19/A

(1) Materials, fixtures and equipment for telecommunications purposes may only be placed on the market, ordered, designed to be used by a telecommunications network, installed and commissioned with an appropriate certification of conformity.

(2) The Minister shall prescribe in a decree the procedure for the certification of conformity, the authority of certification organizations, the conditions for self-certification by manufacturers and the essential requirements of conformity.

(3) Until the decree defined in Subsection (2) enters into effect, the marketing, application and commissioning of telecommunications equipment shall be licensed by the authority.

Section 20

(1) The provision of public telecommunications services shall be subject to licensing. The Government shall establish the conditions for licensing in a decree.

(2) With the exception of cable broadcasting services, telecommunications organizations operating under a concession contract shall not be required to obtain a service license for providing public telecommunications services.

(3) The authority shall issue the service license on the basis of the government decree described in Subsection (1).

(4) In the event of limited availability due to natural resources, an eligibility obtained by public auction or drawing may constitute a prerequisite of the service license.

Section 21

(1) The owner of a private cable telecommunications network shall report the termination (dismantling) of such network to the authority.

(2) The authority shall investigate in the course of the licensing procedure as to what other regulatory (special authority) license or other approval, certificate or verification shall be obtained in advance in connection with the application.

(3) A permit for the marketing of telecommunications equipment in Hungary shall be

requested from the authority by the distributor. In other cases, the authority's permit shall be obtained by the manufacturer or operator of the telecommunications equipment.

(4) In the event of any malfunction in the public telecommunications network the authority may order, by resolution, the temporary use of special purpose networks for public purposes in accordance with the conditions agreed upon in advance by the operators and for a payment to be paid by the public telecommunications service provider. Such resolution shall be executed with immediate effect.

Section 22

(1) The installer of a telecommunications network subject to licensing yet implemented without a license, or the seller or operator of any equipment, marketed or operated in violation of regulations may be ordered by the authority, along with the imposition of a fine as stipulated in legal regulations, to either:

a) dissolve the unlicensed network, or abandon the marketing of the equipment, and reestablish the original status, or

b) initiate the licensing procedure necessary for the approval of the continuation of such network.

(2) The authority shall routinely inspect

the telecommunications organization's fulfillment of obligations assumed in the concession contract,

the observance of the provisions of the license issued by the authority,

the conformity of services in accordance with legal regulations, national standards, and

whether the certificates of conformity described in Section 19/A. have been obtained, in the cases defined by legal regulation, by the parties required to do so.

(3) Service providers shall be required to pay a quality control fee to the authority. The fee shall be payable quarterly, by the 15th day of the month following the quarter, to the account of the Communications Authority maintained by the Hungarian State Treasury.

(4) The amount of quality control fee shall be 136 HUF/year per service access point. The minister shall establish in a decree the calculation base, specified in consideration of the service access point, for the fees of each type of service along with the payment conditions.

(5) If the party subject to the above obligation

is in breach of the obligations prescribed by the concession contract, the authority may propose to the Minister to cancel the concession contract,

is in breach of obligations or in violation of law in connection with Paragraphs b) and c) of Subsection (2), the authority may impose a fine to the extent prescribed by law or may revoke the license, or ban the activities,

is in breach of the obligation defined in Paragraph d) of Subsection (2), the authority shall

be entitled to ban the project, the ordering, planning, installation, commissioning or use of the equipment.

Section 23

(1) The owner (manager, user) of a real property shall be required to tolerate the duly authorized representative of the authority to enter the premises for the purpose of carrying out his/her duty to the extent necessary, or for inspection purposes.

(2)-(3)

CHAPTER VI. PROTECTION OF DATA AND CONFIDENTIALITY ➔

Section 24

(1) Service providers, by virtue of separate laws, shall be subject to data protection and confidentiality obligations.

(2) Service providers may acquire knowledge regarding any announcements or data they have transmitted by themselves or by way of the network, only to the extent necessary for carrying out such service.

(3) Service providers may not surrender any announcement or other private information obtained by way of providing services to others, with the exception of broadcasting and program distribution and other cases as prescribed in another act.

(4) Any announcements transmitted over a radio-communication network, not intended for the public, may not be intercepted, published or used.

(5) Service providers shall inform the users, in the customary standard method, of the conditions under which their data are handled (including the types of data, the purpose and period of storage and possible transmission of such data, and the insurance of data transmission) and the user's related rights and obligations.

Section 25

(1) The obligation of data protection and confidentiality shall apply to the employees, members and representatives of service providers equally as to the service provider.

(2) In respect of being relieved from the obligation of data protection and confidentiality, and for the applicable period after the cessation of the activity, the provisions prescribed in other laws shall be authoritative.

CHAPTER VI. RIGHTS PERTAINING TO THE USE OF REAL PROPERTY ➔

Section 26

(1) The owner (manager, user) of a real property shall tolerate, subject to prior notification:

the duly authorized representative of the public telecommunications service provider to enter the property for maintenance and (emergency) repair purposes;

for the public telecommunications service provider to install telecommunications equipment, conduits, antennas (hereinafter jointly referred to as "telecommunications apparatus") for the purpose of public telecommunications services, if such cannot be implemented otherwise due to technical reasons (which is to be certified by the authority in an official statement), on, above, below or within the property, building or any superstructure.

(2) In respect of Paragraph a) of Subsection (1), the owner of the real property shall be entitled to indemnification corresponding to the measure of restriction. In addition to the prior, in the case described in Paragraph b) the owner shall also be eligible for the provisions prescribed in Subsection (2) of Section 108 of the Civil Code. In the case of expropriation, the party asking for expropriation shall be required to obtain the opinion of the authority as well.

(3) In respect of telecommunications equipment placed on real estate, at the request of the public service provider the authority, by resolution and for public interest, may establish an easement or other right of utilization, or may grant cabling rights.

(4) Utilization rights may also be implemented on substructures or antenna towers installed on the basis of utilization right obtained by a public telecommunications service provider, particularly for governmental, national security or public safety interests, if such implementation does not seriously violate reasonable private interests originating from other legal relations and if, due to technical and economic reasons, no other solution is available. The beneficiary of such utilization right shall be subject to contracting obligation, except if able to verify his inability to satisfy said obligation due to development requirements assumed in the concession contract. If the contract is not concluded, the authority may instigate such contract by resolution upon request of one of the parties, also stipulating the conditions of joint use.

(5) The representatives of public telecommunications service providers defined in Subsection (1) shall be furnished with a document in certification of their identity and duty.

(6) The providers of public telecommunications services shall be entitled to use waterways, canals, natural lakes, and the beds and channels thereof and also the airspace above the area of the country for telecommunications purposes.

Section 27

If it is necessary to remove or relocate any telecommunications apparatus from a building or from the adjacent parcel of land due to the installation, rehabilitation, remodeling or dismantling of a building structure, such work shall be carried out by the service provider, in observation of separate legal regulations.

Section 28

(1) Settlement planning and development, road and public utilities construction and rehabilitation projects, and the implementation and renovation of other buildings and structures shall be executed so as to accommodate the installation of telecommunications equipment as well.

(2) The construction of any new superstructure for telecommunications purposes shall be subject to the consent of the local government concerned or, in Budapest, of the City

Council of Budapest. Urban and natural landscape protection issues shall receive particular attention during such projects.

CHAPTER VIII. PROTECTION OF TELECOMMUNICATIONS ➡

Section 29

(1) The operator of an equipment (apparatus, line, vehicle, or other installation) which interferes with the operation of telecommunications apparatus shall be liable to prevent or to eliminate such interference.

(2) The authority, along with other authorities as provided in another legal regulation, may issue an injunction for the owner of the equipment causing interference to eliminate the interference, or, should such injunction fail to produce results, order the owner to:

install an anti-interference device;

relocate the equipment; or

eliminate the interference in any other way.

(3) The provisions of Subsection (2) may be applied also if the equipment causing the interference is legitimate, with the exception if the interference can be eliminated at no cost at all or at low cost, with modification to the equipment affected by the interference.

(4) The costs of eliminating the interference shall be covered by the owner of the equipment causing the interference, with the exception if said equipment is legitimate and it was in operation prior to the commissioning of the telecommunications apparatus affected by the interference.

(5) In respect of construction licensing procedures the opinion of the authority shall be obtained, in the cases specified by another legal regulation, in which the authority shall issue a statement regarding the proposed building being in conformity with the requirements of telecommunications protection.

(6) If the quality of telecommunications services provided by radio-communication equipment deteriorates due to any building(s) erected subsequently, the costs inherent in the reinstatement of the original service quality shall be covered by the person(s) who caused the deterioration.

Section 30

(1) In the interest of preventing any disturbance in the operation of public telecommunications networks, land owners shall be subject to remove, in accordance with the relevant legal regulation, the trees, bushes, branches and roots which may be the potential source of such disturbance. In the event of a land owner's failure to comply with said obligation in spite of being notified to do so, the public service provider (operator) shall be entitled to carry out the necessary works in place of such land owner.

(2) Operators of non-public telecommunications services may carry out the works described in Subsection (1) as necessary in the interest of preventing any disturbance in the operation of their networks at their own costs and without violating the interest of the land owner.

Section 31

The application of international standards relative to the approximation or crossing of track-line telecommunications objects with other special structures (track objects, public utilities) may be declared mandatory by the Minister in a decree.

CHAPTER IX. DISCLOSURE OF DATA ➔

Section 32

(1) The parties concerned shall furnish the authority with all public data not classified as personal and related to telecommunications which is necessary for the preparation of a concession tender, for the foundation of a telecommunications service provider, for the planning of telecommunications networks, for the conclusion of contracts necessary for such services, for their performance and for the organization and maintenance of an uninterrupted cooperation between the parties. The party disclosing any such data shall be held responsible for the correctness of the contents of such data.

(2) The parties concerned may request data from the authority. The authority is to disclose such data within thirty days, or inform the applicant of the duration of any delay, when applicable.

(3) The authority may also require telecommunications service providers to disclose other data, as specified in a separate legal regulation, for the fulfillment of its tasks.

(4) The Minister, in agreement with the Minister of Finance, shall establish the amount of fees or cost compensations for data disclosure in a decree.

(5) Data evaluating the fulfillment of the obligation of telecommunications organizations defined in the concession contract is public information.

(6) Telecommunications service providers and the authorities shall disclose the data necessary for governmental reasons and/or in the interest of public safety, national defense or national security, in accordance with the conditions prescribed by the Government.

(7) Telecommunications service providers shall cooperate in covert investigations with the organizations so authorized by law, and shall provide the conditions for the application of the means and methods of such covert investigations.

CHAPTER X. STATE FUNCTIONS IN CONNECTION WITH TELECOMMUNICATIONS ➔

Section 33

(1) For the purposes of this Act, the following duties shall be performed by the state:

development of a national telecommunications policy and substantiating the conditions necessary for the implementation thereof, enforcement of governmental, national security, judicial, public security and national defense interests, and the control of the implementation thereof;

regulation of the telecommunications market, approximation of concession contracts, assurance of equal opportunity for new and already active market players by way of legal regulations;

rendering public telecommunications services available and accessible for the hearing-impaired and disabled persons;

exercising ownership rights related to state-owned telecommunications assets;

fulfillment of regulatory duties concerning telecommunications;

issuing regulations and establishing the legal background for economic and technological requirements in the interest of technical and traffic unity of and satisfying the demands placed on the national telecommunications network, furthermore to ensure regulatory instruments;

supervising telecommunications service providers and operators of telecommunications networks;

taking the appropriate actions necessitated by the premature termination of a concession contract for any unforeseeable reasons and by any breach of contract by the concession company regarding telecommunications services;

participation in international telecommunication organizations and the conclusion of telecommunication agreements, conventions and contracts;

developing and assigning to service providers the national numbering and titling of public service telecommunications networks, including international integration thereof;

operation of the National Telecommunications and Informatics Council;

supporting the operation of the Telecommunication Interest Reconciliatory Forum and the Telecommunication Engineering Qualification Committee.

(2) In fulfilling the state functions, the representatives of consumers, enterprises and local governments shall be provided the opportunity to express their views, primarily through the Telecommunication Interests Reconciliatory Forum.

(3) The state functions, in accordance with the division of tasks set forth in this Act and in other legal regulations, prescribed in Subsection (1) shall be performed by the Government and the ministries, while in respect to the Office of the Public Prosecutor of the Republic of Hungary, by the General Prosecutor and the authorities.

(4) The control of the telecommunications sector, furthermore the coordination of the state functions related to telecommunications shall be the Minister's liability.

Section 34

Of the state functions defined in Subsection (1) of Section 33, the following shall fall within the competence of the Government:

development of the national telecommunications policy and having the proposal thereof to

be presented to the Parliament, and supervising its fulfillment if adopted;

within the framework of the national telecommunications policy, enforcement of the country's national security and defense interests.

Section 35

(1) The Minister, within his authority prescribed in this Act:

shall submit proposals regarding the national telecommunications policy and, if approved, shall provide for its fulfillment thereof;

shall control the economic organization established by the state for this purpose with state majority, or so operating, and shall take appropriate measures in the interest of providing equal market opportunities for all public telecommunications service providers if the aforementioned organization should operate in deviation from the provisions set forth in its deed of foundation;

shall initiate the formation of the Telecommunication Representative Forum and that of the Telecommunication Engineering Qualification Committee, and shall provide the background for their operation;

shall designate the structure (nodes) of the telecommunication backbone network and the primary areas;

shall order to have the necessary data and information elaborated, registered and disclosed in the interest of establishing official prices;

shall participate, by virtue of separate legal regulations, in the fulfillment of national security and defense related telecommunications duties.

(2) If the exercising of rights in connection with state property involves the sector-specific control of telecommunications, the authorized state property agency shall be liable to obtain the prior consent of the Minister, and vice versa, regarding the applicable measures necessary therefor.

Section 36

Funding for the state duties set forth in Section 33 of this Act and in other legal regulations shall be allocated in the act on the annual central budget as an independent chapter of appropriation.

Section 37

(1) From among the telecommunications organizations, the economic organization established by the state for this purpose with state majority, or operating so, before this Act entering into force, may carry on its activity described in Subsection (1) of Section 3 without a concession contract and under the same conditions until such telecommunications organization, operating as a concession company, or another concession company begins to provide telecommunications services in accordance with a concession contract concluded in connection with the telecommunications service and area in question.

(2) Under the conditions set forth in a commutative contract, the telecommunication

equipment used by the organizations described in Subsection (1) must be surrendered, pursuant to the concession contract, for use to the concession company until the commencement of the telecommunications service, if the tender announced by the Minister stipulated to grant eligibility (exclusive right) for only one winner regarding the service and the area in question.

(3) The provisions of Subsections (1) and (2) shall be duly applied also if the Minister is to conclude a new concession contract due to the termination of the concession contract.

Section 38

Section 39

(1) The date of this Act entering into force shall be prescribed in another Act.

(2) The telecommunication organization, or its legal successor, described in Subsection (1) of Section 37 established prior to the date of this Act entering into force, may continue its activities, specified under Paragraph a) of Subsection (1) of Section 3 of this Act, beyond 30 April 1994 solely on the basis of a concession contract. In respect of local telephone services the Minister shall be entitled and, on the basis of Subsection (3) of Section 4, shall be liable to carry out the concession procedures prior to and subsequent to this deadline as well.

(3)

(4) The Minister shall conclude the concession contract, in accordance with the agreement with the winner of the tender, with the business association registered in Hungary founded by and with the participation of the winner, on the basis of winner's statement of consignment.

(5) If, according to Paragraphs a)-d) of Subsection (1) of Section 3, the use of frequency is required for the provision of telecommunications services, the terms and proceedings of the concession tender and those of the concession contract may be integrated on the basis of this Act.

(6) Parties shall be liable to review the telecommunications service contracts in effect at the time of this Act entering into force and, to amend such contracts within one year of the date of this Act entering into force, according to the provisions of this Act.

Section 40

(1) Simultaneously with this Act entering into force, the text "Subscription fees and rates of telephone service within Hungary and the fees for direct links" in the row under SZTJ No. "406-22-01" in Table B titled Services in Chapter 1 of the Schedule of Act LXXXVII of 1990 on the Establishment of Prices shall be replaced by "Rates of telecommunications services subject to concession (subscription, call and connection rates)".

(2) The Minister, in agreement with the Minister of Finance, shall specify in a decree the conditions for payment and refunding of entry fees for public telecommunications services along with the extent of the entry fee.

(3)

(4) From the concession fee described in Paragraph a) of Subsection (3) of Section 36, 6, 000 million HUF shall be paid into the Budget, as being due to the Telecommunications Fund.

(4) From the concession fee described in Paragraph a) of Subsection (3) of Section 36, 16, 000 million HUF shall be paid into the Central Budget, as being due to the Telecommunications Fund.

Schedule to Act LXXII of 1992 on Telecommunications

TELECOMMUNICATIONS DEFINITIONS FOR THE PURPOSES OF THIS ACT ➔

1. Basic technical plans

The entirety of the technical specifications which determine the structure of the public telecommunications network, technical and applicability characteristics, and the labeling, traffic control, numbering and synchronization requirements necessary for uninterrupted cooperation with other networks interconnected with the network and with the equipment connected to the prior.

2. Integrated national telecommunications network

The entirety of various telecommunications networks capable of cooperation in which the possibility of interconnection and attachment, necessary either for service security or other requirements, shall be ensured by the observation of the provisions of basic technical plans and of mandatory standards or, until the prior entering into effect, by the use of equipment specified as agreed by the service providers.

3. Leased line

The entirety of electric circuit sections connecting domestic-domestic or foreign-domestic service access points with transparent transmission capacity that includes transmission routes, service access points and monitoring access points, but not including any switching equipment to be controlled by the user. (The service provider may employ switching equipment, controlled by the service provider, in the leased line connection.)

4. Node

Connection point of transmission routes together with the conditions of interconnection and attachment, in accordance with basic technical plans and standards.

5. Public leased line services

Telecommunications service in which the service provider permits, for a fee, the exclusive use of standard connection circuits or virtual circuit sections between the service-access points defined by the user for telecommunications purposes to other parties such as the user or third parties, or a group of the prior, designated by the user. The circuit sections may be track-line telecommunications connections, ground-based radio-communication channels, satellite radio links or any combination thereof.

6. Public mobile cellular telephone network

A ground-based public telecommunications network for the transmission of voice frequency signals between users moving about freely in a wide space, such as

establishing and maintaining telephone voice connections, and

at least 2400 bit/s. data transmission.

Connection with the subscriber called is provided by way of the selection procedure defined in the national and international numbering scheme.

7. Public mobile cellular telephone service

The service provider provides public mobile cellular telephone services

by the transmission of voice induced electromagnetic signals,

to users moving about freely in a wide space over a public mobile cellular telephone network.

The transmission of signals may take place between mobile stations connected to the network, or between a mobile station and the user of stationary public telephone services.

8. Public telephone network

A telecommunications network designed for the transmission of voice frequency signals between 0.3 and 3.4 kHz between stationary local service-access points, such as

establishing and maintaining telephone voice connections, and

at least 2400 bit/s. data transmission by modem (ITU-T "T" and "V" series directives)

Connection with the subscriber called is provided by way of the selection procedure defined in the national and international numbering scheme.

9. Public telephone service

A service subject to concession that may be used through the access points of the public telephone network for a fee. It includes the possibility of initiating, forwarding or receiving local calls, domestic and international long-distance calls, making emergency calls, and using operator and information services, the subscribers' list (phone book) and public stations.

10. Public telecommunications service

Telecommunications service with contracting obligation attached, designed to provide for a fee the transmission of signals or providing access, subject to concession contract on the basis of general contract conditions (business policy, service conditions) announced publicly by the state or by licensed telecommunications service providers founded for the purpose by the state, or with a majority state interest.

11. Closed telecommunications network

A telecommunications network used by a closed group of users primarily for handling the internal telecommunications traffic of such users.

12. Program distribution

Simultaneous and unchanged transmission of signals produced by the program provider through a wire (cable) network or through a non-broadcasting radio-communication system from the facility of the service provider or from the end terminal of the program distribution network by connecting a separate system to the receiver of the user thus entitled, not including signal transmission through a network designed for less than ten receiver units. The activity implemented through a network within the borders of premises (e. g. in a condominium building) shall not be considered as program distribution.

13. Program allocation

Simultaneous and unchanged transmission of signals produced by the program provider to radio or television program transmission stations or to program distribution networks over a wire (cable) network, or a ground-base or satellite non-broadcasting radio-communication system.

14. Broadcasting

Ground-based or satellite one-way radio-communication process for the transmission of voice, images or messages of other nature, destined for a theoretically unlimited number of users having appropriate receiving equipment.

15. National broadcasting

Broadcasting of programs in the area of reception in which at least half of the country's population lives.

16. Interconnection

An interrelation between different networks, and physical or logical connection to such networks, made possible by a network contract stipulating the conditions of interrelation to permit information to be exchanged by the users of services and subscribers.

17. Primary zone

Part of the public telephone network inside of which, in the framework of the subscriber contract, the use of the backbone network is not necessary in order to establish connection between two service access points for the service provided.

18. Line connection

Connecting telecommunications terminals onto the telecommunications network at service-access points for providing subscriber services, leased line services or for providing other (telecommunications or data transmission) services.

19. Private network

A telecommunications network used exclusively by a business or an individual for own telecommunications purposes.

20. Paging service

Radio-communication service designed to transmit specific and addressed messages for a user changing his/her location that can be initiated from the terminal equipment of the public telecommunication network. A nationwide paging service serves at least 50% of the country's population. Local paging service is the one the reception area of which has a population of less than 100 thousand by annual average, or with a population of less than 500 thousand within one city.

21. Service-access point

Any physical connection point (interface), defined by the technical conditions of access, which is a part of the telecommunications network and which makes the information exchange possible over the telecommunications network.

Network service-access point

The point of the public telecommunications network which provides for interconnection with another network.

Subscriber service-access point

The point of the public telecommunications network for the connection of subscriber terminals or other equipment designed for other subscriber services.

22. Telegraph service

The service provider takes the text of the message from the customer, either through the telecommunications network or by the participation of the postal service provider, in return for a fee, transfers it over the telecommunications network, then delivers it

through a postal service provider,

by telephone or other means of telecommunications.

23. Telecommunications

An activity whereby signals, signs, texts, images, voice or messages of any other nature generated in any conceivable form can be transmitted either through electrical or optical means, or by radio or other electromagnetic system established by public, closed, special, and private purpose and closed-circuit telecommunications network, or the combination thereof, to one or more customers or users.

24. Telecommunications track-line and track-type structures and other objects, jointly: telecommunications structures

Special structures necessary for telecommunications that include

the cables, and objects in connection with cables and wireless connection, such as covers,

supports, protective equipment, signal equipment, etc. engineering objects

the track-line (the theoretical line determining the theoretical axis by horizontal projection on the level), and

accessories, support structures, poles, tunnels, cable housings, channels, underground and surface signals and protective objects.

25. Telecommunications service

Telecommunications services are telecommunications traffic (also referred to as transmission, hereinafter "traffic") services provided for a fee and telecommunications network access (hereinafter referred to as "access") services.

Traffic service constitutes the transmission of signals, defined by the user and characteristic to the service (sign, sound, text, photograph or motion picture, digital transmitter signal, speech, analog or digital electronic voice signal, broadcast or other signal) when initiated by the user of the service, in the mode characteristic to the service as electronic or electromagnetic signals between the locations defined by the user and without changing its content, excluding, in the manner depending on the mode of service, reception or transmission by outside parties depending on the mode of service.

Network access service constitutes the service that provides access (the possibility of using traffic services) for a specific time and by specific conditions to the network or a section of the network for the user or for his representative.

26. Telecommunications service provider

A legal entity, a business association without legal personality or a private entrepreneur which/who is entitled to provide and provides telecommunications services for others (another service provider, user or subscriber).

27. Telecommunications backbone network

The distinct part of the telecommunication network, which is capable of transmitting any kind of telecommunication signals, with no subscribers connected directly, rather it provides access at a specific signal transmission rate at the nodes for users on the basis of a network contract. The backbone network extends to the network service-access points situated at the exchange centers of the primary areas, as defined in the basic technical plans (structure plan).

28. Telecommunications network

The entirety of equipment and software for telecommunications purposes that allow the transmission and control of information between access points, including the uniform construction, maintenance, modification and disconnection of physical or virtual connections.

29. Telecommunications terminal equipment

An equipment designed to be connected to the public telecommunications network

directly through the subscriber service-access point, or

for interaction with the public telecommunications network connected directly or indirectly to the subscriber service-access point

for releasing, processing or receiving information. Connection may be established through cable, radio-communication, optics fiber or other electromagnetic device.

30. Boundaries of a parcel of land

The lines separating a given parcel of land from other parcels of land are considered the boundaries of a parcel in respect of the construction, establishment and development of telecommunications equipment and, in the case of Section 2, the border of internal roads or the public road stretching along the side of the land, when the parcel has houses having several stories (in the case of a land with townhouses or several detached houses) constructed on it.

31. Natural (limited) resources

The frequency range necessary for the operation of radio-communication equipment and the numbers and addresses available for providing telecommunications services.

32. Closed purpose network

The entirety of telecommunications networks and equipment being distinct due to their purpose, used for governmental, national security, justice or national defense purposes, exclusively for special requirements or for the operation of an organization or technology establish for this purpose.