

Act XL of 2001 on Communications

In order to upgrade the communications infrastructure of the information society, to ensure supply of secure communications services of good quality and price to the consumers, to ensure development and protection of the communications market, to secure competition and to ensure efficient interoperation between the communications networks the Parliament has adopted the following Act on Communications:

PART ONE

GENERAL PROVISIONS

Chapter I

Scope and basic principles of the Act

Article 1

(1) A following are specified herein:

- a) the basic rules of operation of the communications market, the rights and obligations of entities performing activities associated with communications, service providers and users;
- b) the responsibilities of the State in connection with communications, the institutions performing state duties, the rules of government and official procedures;
- c) other rules governing the communications activities and services not covered by other legislation.

(2) This Act shall be applied to communications activities carried out and those provided for and used by users in the territory of the Republic of Hungary, including all other activities that generate radio frequency signals.

(3) This Act shall apply to

- a) natural persons, legal entities and enterprises without legal personality performing activities or providing services identified in paragraph (2) or associated with the same,
- b) users,
- c) domestic or foreign natural persons, legal persons and enterprises without legal personality affected by the activity or service identified in paragraph (2).

(4) This Act shall be applied to telecommunications networks used exclusively for satisfaction of the demands of the government, national security, jurisdiction, law enforcement and national defence - intended to be operated as private networks - in harmony with separate laws and legislations applicable to them, with the differences laid down therein.

(5) A definitions of concepts and terms applied in respect of communications are laid out in Article 110.

Article 2

(1) A objectives of this Act include the following:

- a) to ensure availability and free trade of communications services - being services of public interest - in accordance with international agreements, including cross-border services;
- b) to create a framework of regulations that promotes the development of the communications infrastructure of the information society, which is measurable, transparent, independent of the technology used and restricts freedom of competition only to a reasonable extent;
- c) to promote the development of communications competition;
- d) to ensure universal accessibility of the communications services specified for the benefit of society as a whole;
- e) to develop mechanisms that ensure the freedom, rights, obligations, equality of opportunities, enable participants of the market to assert their interests and that promote the entry of the market by new participants; to counterbalance in a differential way the influence of players with significant market power - to the extent required for the development and maintenance of an efficient competitive market;
- f) to protect the interests of the consumers in their relations with all players of the communications market;
- g) to promote and/or implement the protection of data in connection with communications;
- h) to enforce compliance with environment protection requirements in connection with communications;
- i) to provide for the efficient management of scarce resources;
- j) to ensure compatibility with the regulations applied by the European Union, to promote the integration of the Hungarian communications market into the Community market;
- k) to fulfil international obligations; and
- l) to establish the essential rules governing the duties of the State in the area of communications, including security of communications and preparation for emergency situations.

(2) A parties performing communications activities shall cooperate with each other during the performance of the activities and provision of the services regulated in this Act.

PART TWO

RULES OF COMMUNICATIONS SERVICES AND ACTIVITIES

Chapter II

REQUISITES FOR THE LAUNCHING OF THE PROVISION OF COMMUNICATIONS SERVICES

Right to provide communications services

Article 3

- (1) Communications services may be provided upon reporting to the authority identified in Article 70 (3) by any natural person or legal entity or enterprise without legal personality, with the exceptions specified in paragraphs (2) and (3) and the limitations specified in Article 4.
- (2) Transmission and broadcasting of national and regional radio and television programmes (with the exception of the provision of specialised programmes) may be carried out by concession holder companies established to provide telecommunications services and by enterprises established by the State for this purpose in accordance under the conditions laid down in other legislation.
- (3) Services classified as universal postal services may be provided by entities other than the universal service provider subject to a license, the content and procedures of which shall be specified in a separate legislation.

Special requisites for the launching and the continued provision of certain communications services

Article 4

- (1) Cable program distribution service may be provided - with the exception specified in paragraph (2) - only by enterprises with legal personality.
- (2) Cable program distribution service may also be provided by enterprises without legal personality or sole proprietorships where the (aggregate) number of customers in the service area of its business is below five thousand. Upon the conclusion of the 5000th subscriber contract the service provider shall comply with the requirements of paragraph (1) within six months.
- (3) If a service provider with significant market power in the market, as identified in Article 25 (2) (a), intends to provide cable program distribution service, it shall establish a separate enterprise for this purpose.
- (4) A following entities shall not create or acquire right to dispose over cable networks suitable for the provision of programme distribution services that are parallel with their own or with their partners' telecommunications networks, with the exception of municipalities where the total number of residents is below 30,000:
 - a) a service provider with significant market power in the market as identified in Article 25 (2) (a);
 - b) an enterprise in which a company specified in paragraph (a) having a parallel network holds directly or indirectly a controlling share.

Reporting of communications service provision

Article 5

(1) A provision of a communications service shall be notified to the relevant authority for registration, at least thirty days prior to the actual launching of the provision of such service.

(2) A report shall include at least the following details:

- a) name (company name) and address (headquarters) of the reporting party or its representative;
- b) name, statistical code and specification of the service intended to be provided;
- c) definition of the geographical area where the service is intended to be provided;
- d) identification of the group of users for which the service is intended to be provided;
- e) identification of the requisites (tangible assets) to be applied in the provision of the service;

(3) If required in respect of the service the following shall be attached to the report in addition to what is specified in paragraph (2):

- a) specification of the types of equipment required for the use of the service – meeting the requirements laid out in Articles 7 and 8;
- b) a declaration by the service provider on the licences required for provision of the service according to Articles 10 and 11;
- c) the general contract conditions of the service, if elaboration of such is required by other legislation;
- d) a declaration on compliance under the conditions laid down in respect of the service in other legislation, or if such conditions do not exist the conditions guaranteed by the reporting party;
- e) a declaration on the compliance of the service with the relevant legislation.

(4) A further content elements of and annexes to the notification of services identified in paragraph (1) are laid down in other legislation.

Registration of a report on service provision

Article 6

(1) The Authority shall register a report submitted by a service provider and shall notify the submitter of the report of such registration. Before registration the authority shall verify whether contents of the notification comply with the requirements of the relevant laws.

(2) The Authority shall not register a report if the notifying entity fails to meet the conditions specified in this Act or in other legislation. Service provision may be launched on the thirty first day following the submission of the report – unless registration was rejected, or in the case specified in paragraphs (3) - (5) - even if the authority fails to notify the service provider as provided for in paragraph (1).

(3) Where the service provider uses a network - for service provision - equipped with interfaces to which Article 9 (2) does not apply, service provision may be launched after the passing of a minimum of 90 days of the submission of the report, if such date follows the date specified in paragraph (2).

(4) A communications service provider providing program distribution service may start the provision of program distribution service only after registration according to Act I of 1996 on Radio and Television Services (hereinafter referred to as 'Radio and Television Services Act').

(5) A provision of national directory service as specified in Article 17 (2) may be launched after the passing of a minimum of 90 days after the submission of the report; however the authority shall register the service within thirty days of notification - unless registration is rejected. After registration - and before launching service provision - the telephone and mobile radio telephone service providers shall also make it technically possible for the subscribers to access the new national directory service.

(6) The Authority shall delete the service from the register if provision of service is not started by the service provider within 180 days of registration or where the provision of service has been prohibited by a binding and enforceable resolution according to Article 85 (1). The service provider shall notify the authority if it does not start provision of service within 180 days of notification.

(7) The Authority shall keep a register of service providers which includes

- a) name (company name) and address (headquarters) of the service provider and its representative, name and code of the services provided by it;
- b) based on the service provider's statement, identification of the network and - if already registered - the interfaces owned or used by the service provider;
- c) a declaration of the telephone or mobile radio telephone service provider that it will ensure accessibility to emergency services and any national directory assistance service specified in Article 17 (2);

(8) Any modification of a communications service shall be governed by the rules regulating the launching of such, but the report on this fact shall only include a reference to the notification earlier made and data shall be provided, statement shall be made and/or documents shall be submitted only with respect to the changes.

(9) A statements referred to in points b) and c) of paragraph 7 shall be made upon the reporting by the service provider of its intent to launch its first service.

(10) Any change in the data of a service provider as per paragraph (7) shall be reported to the authority within 30 days for modification in the service providers' register.

Introduction of communications equipment to the market

Article 7

(1) Communications equipment meeting the essential requirements identified in paragraphs (1) to (3) of Article 8 may be freely marketed - provided they comply with the other conditions laid down by other legislation.

(2) A provisions of Article 8 shall apply to radio equipment used outside the scope of frequency management for civilian purposes in the manner and with the differences laid down in other legislation.

Article 8

(1) A communications equipment shall not endanger the life, health and physical safety of users and other persons (basic safety requirements); and the communication equipment shall comply with the electromagnetic compatibility requirements (EMC).

(2) In addition to the requirements of paragraph (1), the design by the manufacturer and/or the installation by the user of radio equipment shall provide for the prevention of harmful radio frequency interference and for the efficient utilisation of the frequency range required for its operation along with the possibilities of satellite orbits.

(3) Postal equipment, radio equipment or telecommunications terminal equipment of certain classification or of special types - as specified in other legislation - may be required to meet one or more of the requirements listed below. Accordingly, such equipment shall

- a) be suitable for interoperation with other equipment via the telecommunications networks and connection with interfaces of suitable types;
- b) not have harmful impacts to the telecommunications network or its operation and not use the resources of the telecommunications networks in any way that may be regarded as not appropriate, resulting in unacceptable restriction of the service ;
- c) protect personal data and privacy rights of users and subscribers;
- d) prevent breaching of regulations (abuse, misuse);
- e) provide access to emergency and aid services;
- f) use by persons with visual, hearing or motoric disabilities.

(4) Conformity of radio equipment and telecommunications terminal equipment to the essential requirements - as required by laws - shall be certified through declaration of conformity based on a conformity assessment procedure.

(5) A existence of documents created or required to be created in the declaration of conformity or in the conformity assessment procedure (in particular the technical documentation, the certificate issued by the designated certification authority) and conformity to the essential requirements shall be controlled by the authority through a market surveillance procedure.

Reporting of interfaces

Article 9

(1) A principal for which a telecommunication network is built, its operator or owner shall notify the authority of the interfaces required for performance of communications activity or for the provision of service on the network, not later than the date on which the network is put

into operation. The detailed technical specifications of the interfaces, as required by laws, shall be attached to the notification.

(2) No technical specification of interface shall need to be submitted where the requirements applicable to the interface have already been published by the Hungarian Standards Body as national standard.

(3) A submitted interface specifications shall be registered by the authority and the register shall be made available for inspection by anybody.

Licensing of the construction of telecommunications facilities

Article 10

(1) A construction, putting into operation, maintenance, transformation or dismantling of track-based or track-type telecommunication facilities or other structures (hereinafter 'telecommunications facilities') shall be subject to licensing by the relevant authority.

(2) Unless otherwise provided by law no official licence shall be required for the construction of telecommunications facilities not classified as overhead construction when performed by a company or person exclusively for the satisfaction of its (his) own demands or if such facility carries the internal telecommunications traffic of a closed user group, provided that such facility is restricted to the real estate of such company or person.

Frequency assignment and radio licence, reservation and assignment of identifiers

Article 11

(1) Radio equipment, radio stations, radio networks and radio-communication systems may - with the exception of cases specified by law - be installed on the basis of a frequency assignment license, while radio equipment, radio stations and radio-communication networks may be operated - with the exception of receivers - by holders of radio licences. A radio licence shall be issued exclusively on the basis of a valid frequency assignment licence - except for cases specified by law. General authorisation may be given by laws on the operation of certain radio equipment.

(2) Frequency utilisation by radio equipment shall be in accordance with the National Table of Frequency Allocations (hereinafter 'FNFT'), except in the case of short experimental operation or operation entailing frequency use not exceeding thirty days, and the case when the radio equipment is sold in Hungary, but for technical reasons, it can be operated only outside Hungary.

(3) An identifier may be used exclusively with an assignment licence. Assignment of the identifiers included in the National Plan of Identifier Allocations (hereinafter referred to as 'ANFT') is subject to reservation.

(4) A holder of a licence identified in paragraphs (1) and (3) shall not transfer or assign the licence to other persons, unless otherwise provided by law.

(5) A fee specified by law shall be paid for the reservation and authorised use of frequencies assigned for civil purposes, and for reservation of identifiers and use of the assigned identifiers. Such fee shall constitute the revenue of the Communications Authority as identified in Article 70 (1). No such fee shall be charged for the reservation of sub-domains of frequency and identifier domains laid down in the concession contract.

(6) If a licence mentioned in paragraph (1) is revoked due to modification of FNFT or an international obligation promulgated by law, the licensee shall be entitled to compensation, up to the amount of decrease in the value of its property, to be paid from the state budget.

Chapter III

Rules of providing communications services

General rules

Article 12

(1) During the provision of a communications service the conditions provided for at the time of notification or allocation shall be maintained as a minimum, and the requirements undertaken to meet by the operator and those specified by law shall be met.

(2) A service provider shall

- a) provide the services for customers in similar circumstances under similar conditions,
- b) configure the services provided for other telecommunications service providers according to the market requirements and the nature of its commercial relations with such service providers.

(3) A service provider with significant market power shall provide the services configured according to paragraph (2) (b) for other telecommunications service providers in similar circumstances under similar commercial conditions, and such conditions may not be more unfavourable than those offered to other service providers controlled by the service provider on question or those it is controlled by, under Act LVII of 1996 on prohibition of unfair market behaviour and restriction of competition.

(4) A communications service provider shall operate customer service for the management of notices made by customers or users, for the investigation and remedying of complaints and for the provision of information for subscribers and users. Such service shall be accessible by phone or shall be operating at premises open for customers, and shall be accessible via the Internet, if possible.

Cooperation in the collection of confidential information, during a state of emergency and for national defence purposes

Article 13

- (1) A communications service provider shall cooperate with the organisations authorised by other legislation to collect confidential information.
- (2) In respect of its own equipment and premises a service provider shall, from the launching of service provision, provide for the requisites for the application of tools and methods for collecting confidential information.
- (3) A service provider shall bear the costs of a basic monitoring sub-system.
- (4) No charge shall be paid for data supply to the organisations authorised to collect confidential information.
- (5) In the cases specified by law a communications service provider shall cooperate with the operators of government and military purpose networks.
- (6) A service provider shall have plans for the preparation for extraordinary situations, for the elimination of operational disorders and for disaster recovery, with contents specified by other legislation. Such plans shall be reviewed and maintained on an ongoing basis to ensure the elimination of any operational disorder caused by technical, traffic-related or other disasters or risks, and shall have reserves of with the capacity and composition required for the performance of tasks required by laws providing for preparation for the above.
- (7) Communications service providers shall cooperate with each other and the competent organisations, in a way specified by other legislation, for the development and application of an action plan to be applied in the case of state of emergency or disaster.
- (8) A communications service provider shall be entitled to compensation for its costs actually incurred in connection with the measures taken in the case of state of emergency or disaster in accordance with the action plan, and with the provision of communications services pursuant to relevant laws in the interests of national defence.

Subscriber services

Article 14

(1) A detailed conditions of the provision and use of telecommunications services available for the public and leased line services not governed by Article 39 (hereinafter referred to as 'subscriber services') shall be included in the general contract conditions and the individual subscriber contracts. The conditions of a subscriber contract concerning the protection of consumers, the quality of service, the rights and obligations of the parties are laid down in other legislation.

(2) In the cases specified in legislation the contract shall be put down in writing.

(3) A subscriber may use the service at any time during the term of the contract and may connect terminal equipment to the interface provided on the network.

(4) Telephone and mobile radio telephone service providers shall enable subscribers to access the emergency services and use of any national directory assistance service as specified in Article 17 (2), and shall provide such directory assistance service providers with the names of subscribers and the parts of the addresses of subscribers specified by subscribers for the purposes of such disclosure - subject to consent of the customers - along with the telephone numbers of customers. This information shall be made available free of charge to the directory service provider as specified in Article 17 (3).

(5) A telecommunications service provider may sell products and services to its subscriber, purchased in its own name, together with the telecommunications service provided for the customer according to the subscriber contract concluded according to law and its general contract conditions, in the way specified therein, in an unchanged form, and invoice them to the customer in the telecommunications bill or charge them to any prepaid amount received from the customer.

(6) A telecommunications service provider shall clearly show

- a) in the subscriber contract the possibility of the on-sale of products and services obtained from third parties; and
- b) in the bill the fact of any sale of any product and service obtained from a third party.

Article 15

- (1) A service provider under obligation under obligation to provide universal telecommunications service shall conclude a subscriber contract for universal services upon request.
- (2) No obligation to conclude a contract shall be imposed on a service provider if
- a) the requesting party is in default of payment of charge for more than three months to any universal service provider for using a universal telecommunications service, or
 - b) the requesting party's earlier subscriber contract was terminated not more than six months before the offer for a reason specified by law.

Responsibility for the performance of telecommunications subscriber contracts

Article 16

- (1) A service provider shall be liable for any decrease in the value of the user's property caused by late or deficient performance of a telecommunications subscriber contract.
- (2) Claims in respect of telecommunications subscriber contracts may be lodged, in the cases specified in paragraph (1), within one year following the late or deficient performance.
- (3) In the case of breach of a subscriber contract the service provider shall pay a penalty specified by other legislation.

Special rules of certain subscriber services

Article 17

- (1) Directory assistance service may be provided
- a) nation-wide, or
 - b) in specific areas,
 - c) in respect of the telephone numbers of all telephone and mobile radio telephone service providers, or
 - d) in respect of the telephone numbers of some of the service providers referred to in point c).
- (2) A rules specified in Article 6 (5), Article 6 (7) c) and Article 14 (4) shall be applied to the national directory assistance service covering the telephone numbers of all telephone and mobile radio telephone service providers.
- (3) A service providers with significant market power in the market of telephone services and mobile radio telephone services and the universal telecommunications service providers shall jointly ensure the operation of a national directory service covering all telephone and mobile radio telephone numbers. Should they fail to reach an agreement they may turn to the Communications Arbitration Committee defined in Article 70 (5) for reconciliation.

(4) If a service provider is a universal service provider as well as a service provider with significant market power it shall bear the costs of operating the directory assistance service specified in paragraph (3) only in its capacity of one of the two statuses.

Ensuring number portability, carrier selection

Article 18

(1) A telephone service provider shall ensure for its subscribers the ability to retain their telephone numbers when - in the case of a fixed line telephone service without changing the geographical location of usage - they change service providers.

(2) Carrier selection through pre-selection or using a prefix for each call shall be made available to the subscriber

- a) by the telephone service provider, in the case of national long-distance calls
- b) by the telephone service provider and the mobile radio telephone service provider in the case of international calls.

(3) A obligation of a service provider identified in paragraphs (1) and (2) shall be discharged as specified in the subscriber contract, through the conclusion and performance of interconnection contracts.

Postal service contract

Article 19

(1) A postal service contract shall be concluded by the taking over by the service provider of items or by the depositing of items by the customer in a mail box installed by the service provider or other facility installed for this purpose, or by the undertaking to provide the required service, or by a written acknowledgement of receipt registered consignments. A service provider shall confirm the commencement of service provision, or in respect of non registered items the processing of the consignments, by applying a date stamp on the item that is also suitable for the identification of the service provider.

(2) A service provider shall take, process, forward and deliver to the addressee, or to other entitled recipient as identified by legislation, a postal consignment in accordance with the relevant laws, national standards, international agreements and its general contract conditions (Code of Practice approved by the authority where required by law).

If the entitlement to take over a consignment by a recipient is based on an authorisation the mandatory content and formal components of such authorisation shall be specified in other legislation.

(3) A service provider may engage a third party for involvement in the provision of postal service in cases and in the way specified by other legislation.

(4) A postal service provider shall refuse to conclude or perform a contract for services within its scope of activities if it is informed about any of the following facts:

- a) performance of the contract is contrary to legislation or international agreement;
- b) the contents of the consignment are clearly harmful or dangerous to life, health, physical security or human environment;
- c) the item does not comply with the requirements for items that may be delivered upon certain conditions.

(5) Any additional costs arising in connection with rejection of performance according to paragraph (4) or return of a consignment shall be borne by the sender.

(6) In its general contract conditions a service provider shall specify the postal consignments, the conditions of mailing including the circumstances specified in paragraph (4), and the rules of service provision and shall provide for their disclosure.

(7) A service provider may reject conclusion of contract if

- a) provision of the service is suspended or restricted pursuant to law, or
- b) the traffic-related requisites for the provision of the service are not available - for a reason beyond its scope of activities.

(8) If the item needs to be delivered abroad or if the item is received from abroad the provisions of this Act may be applied only if international contracts do not provide otherwise.

Article 20

(1) A charge for a postal service shall be paid in cash, with postage stamp or in other ways, on acceptance by the service provider of the item. The service provider may specify in its general contract conditions a different time for payment.

(2) A universal postal service provider shall accept valid postage stamps or other postal value articles in payment for the universal postal services relating to items of correspondence.

(3) A service provider may request the service charge within one year after delivery.

(4) For the franking of a postal consignment a postal service provider may use only means and methods that enable identification of the postal service provider's name (company name), the franked value, and that can clearly be distinguished from the franking means and methods of other postal service providers.

Article 21

(1) A service provider shall deliver the postal consignment to the addressee - with the differences and exceptions specified by law - through depositing such in the mail box dedicated to such purpose at the address specified by the sender, or through handover to the addressee or other authorised receiving party.

(2) If requested by the sender or the addressee, through ordering the relevant service, the postal service provider shall deliver the item to a new address instead of the initially identified address. The postal service provider may keep a register of addresses to ensure provision of this service and secure delivery to the addressee.

(3) Before confirmation of delivery of a registered item the identification of the receiving party shall be verified through presentation of an ID card specified by other legislation. In the case of delivery of non-registered item the service provider may request identification.

(4) A type, code and number of the ID card shall be recorded by the service provider in the delivery document. If the holder of the ID card protests against the recording of such data it shall be registered by the service provider as a factor preventing delivery.

(5) A consignment taken over by the service provider shall - unless the opposite is proven - continue to be owned by the sender until its delivery to the addressee.

(6) Any item that cannot be delivered shall be kept by the service provider for six months after posting in accordance with the rules of safeguarding with liability laid down in Act IV of 1959 on the Civil Code of the Republic of Hungary (hereinafter referred to as 'Civil Code'). During the period of safekeeping the service provider shall remind the addressee - specifying a deadline and setting out the legal consequences of failure to accept delivery - to accept the delivery of the item, or, if the addressee cannot be contacted, it shall remind the sender. After the expiry of the deadline set by the service provider for acceptance the service provider shall

- a) open the consignment,
- b) sell the contents of the consignment,
- c) destruct the items of correspondence and the contents of consignments that cannot be sold,

d) deposit, with a court, the money received from sale according to point b) and any cash remitted, net of its costs incurred in the transaction, along with the identification of such cost items.

(7) A consignment shall be considered as undeliverable if it

a) cannot be delivered to the addressee and cannot be returned to the sender for any reason beyond the control of the service provider, or

b) the charge applicable to the item has not been paid by the sender - or the addressee in the case of a relevant agreement.

Article 22

- (1) Items sent abroad from Hungary or to Hungary from abroad, that are subject to mandatory customs clearance but have not been through clearance, shall be submitted by the service provider to the customs authority, in the presence of its authorised representative.
- (2) Items received from abroad shall be forwarded by a service provider to the assigned customs office - as provided by law or if so required by the addressee. The service provider shall inform the addressee of having forwarded the consignment to the customs office.
- (3) A service provider shall return to the sender any consignment that cannot be cleared through customs - unless the sender or the customs regulations provide otherwise.
- (4) A postal service provider's employee in charge of enforcement or of performing security services may hold, for the purposes of the performance of such duties, chemical devices (gas spray) and - according to relevant laws - gas or alarm pistols but may only use such for justifiable self-defence or in extreme situations.

Liability for the performance of postal services

Article 23

- (1) The relevant provisions of the Civil Code shall be applied to the deficient performance of a postal service contract, with the differences specified in this Act and in international agreements. Any claim for damages against the service provider may be lodged from the fifteenth day after posting, or in the case of deficiency of or damage to the consignment after a record of such fact is taken, for a period of one year.
- (2) In the case of failure to perform or non-compliant performance of the postal service the service provider shall reimburse the charges previously paid. The charge of non-registered items shall not be reimbursed by the service provider.
- (3) In the case of universal postal services the service provider shall reimburse to the user through payment of a flat-rate compensation - the amount of which is specified by other legislation –any loss caused by damage, partial or full loss or destruction of the registered mail - except for consignments posted items under value insurance coverage.

(4) In the case of loss or destruction of the item covered by value insurance the amount of compensation shall be the sum insured.

(5) In the case of partial loss of or damage to a consignment item the flat-rate compensation shall be proportionate to the partial loss or damage.

(6) In respect of payments to or by a postal service provider under the postal money order service the service provider shall be liable for the amounts not settled as proven by a document.

(7) A service provider may, in its general contract conditions or with special contract provisions, commit to stricter liability rules than those required by law for its areas of activity.

(8) A postal service provider shall not be liable for failure to perform or non-compliant performance of the service if the owner of the real estate property has not provided for the installation of his/her (its) own mail box, of parameters meeting the relevant standards, suitable for the secure depositing of the items of correspondence, accessible near the entrance of the property.

(9) A service provider shall not be liable for the performance of postal services if it can prove that the loss was caused by factors beyond its control, nor shall it be liable

- a) for any loss caused by false delivery, loss, damage or destruction of non-registered items of correspondence;
- b) for any loss caused by late performance, except for service of guaranteed delivery time for postal service involving the delivery of parcels with perishable contents;
- c) if the loss was caused by an internal feature of the item, a deficiency of the packaging that cannot be seen from the outside or incorrect addressing,

(10) If the contents of a postal consignment cause harm to the health, property of or consignment posted by a third party through contractual performance of the postal service the sender of such postal consignment shall be liable for damages according to the general provisions of the civil law.

(11) The following persons shall provide evidence in connection with the points in paragraphs (9) and (10):

- a) the service provider in respect of deficiency of the packaging, and incorrect addressing, and in respect of the fact that the loss was caused by factors beyond its control or the consignment of a person other than the injured party while the service provider was performing the service according to the contract,
- b) the sender or the addressee in respect of proving that the damage was not caused by deficiency of the packaging or incorrect addressing, or the contents or an internal feature of the consignment.

Postal payment and financial services

Article 24

(1) A following services shall be included in the category of postal payment services:

- a) acceptance of payment to bank account;
- b) payment from a bank account through a postal clearing system.

(2) Cash transfer shall be qualify as a postal financial service.

(3) A universal postal service provider as defined in Article 105 (2) shall be authorised to perform investment and supplementary investment services as specified in other legislation.

***Rules governing the identification of service providers
with significant market power***

Article 25

(1) The Communications Arbitration Committee shall identify as a service provider with significant market power a service provider which

- a) in respect of a service identified in paragraph (2),
- b) in a specified area where it provides service,
- c) holds at least 25% share.

(2) The following relevant service markets shall be distinguished within the telecommunications market:

- a) the market of telephone services,
- b) the market of mobile radio telephone services,
- c) the market of leased line services,
- d) the market of interconnection services.

(3) In agreement with the National Communication and IT Council the Chairman of the Communications Authority may submit a request, until 31 May each year, to the authorised entity, that the Government should propose a bill to modify the scope of the relevant service markets as of 1 January of the next year, and to identify the obligations referred to in Articles 40 to 42 which will apply to the service providers having significant market power on the new relevant markets.

(4) Different specific territories shall be identified for the various relevant markets of each of the different services identified in paragraph (2), taking into consideration the substitute services.

(5) In the identification of service providers with significant market power the Arbitration Committee may deviate from the market shares specified in paragraph (1) on the basis of a combined assessment of the following circumstance of the service provider:

- a) its presence in the geographical area of given market, and, in respect of the entire communications market, presence in the relevant related markets,
- b) its capability of influencing market conditions in the geographical area of the given market or in respect of the entire communications market, in particular the role played by the service provider, together with the companies controlled by or

controlling the service provider as specified in Act LVII of 1996 on the prohibition of unfair market behaviour and restriction of competition, and the companies controlled by the companies controlling the service provider, in the given market or the entire national communications market,

- c) its annual net sales revenues in proportion to the size of the entire national communications market,
- d) its capacity to dispose over the means of access to users in the geographical area of the given market,
- e) its access to financial resources,
- f) its experience in the performance of communications activities and in the provision of communications services.

***Special rules applicable to certain service providers
with significant market power***

Article 26

A service provider with significant market power in the market of leased line services shall provide leased line services of standardised technical parameters under conditions of use laid down in other legislation, offering the required choice of services.

Article 27

The prices of subscriber and postal services

(1) A communications service provider may freely determine the price of the subscriber and postal services provided for customers and users, with the exceptions identified in paragraphs (2) - (3).

(2) The subscription fee to be paid for the universal telephone service shall be the regulated price as defined in Article 9 (1) of Act LXXXVII of 1999 on pricing (hereinafter: 'Pricing Act').

(3) The regulations applicable to calculation of the regulated price shall be applied to calculation of the following:

- a) the regulated price of telephone services provided by service providers with significant market power in the markets identified in Article 25 (2) a), except for those identified in paragraph (2),
- b) the regulated price of broadcasting services,
- c) the price of reserved postal services, except for international delivery,
- d) the price of access to Internet service via the telephone network,
- e) the share of the telecommunications service charge paid by the telecommunications service provider to the Internet service provider in the case of the provision of Internet services via telecommunications network.

(4) The prices of universal postal services not subject to regulation shall be calculated in accordance with the following requirements:

- a) prices shall be based on the costs incurred in connection with service provision,
- b) prices shall be transparent and non-discriminatory.

Accounting rules

Article 28

(1) A communications service provider shall, on an ongoing basis, separately state in its books and records its revenues generated from the communications activity for each relevant market identified in Article 25 (2).

(2) A service provider with significant market power in the markets, as identified in Article 25 (2), and all universal service providers shall, in their accounting records state the following items separately, and in a controllable way:

- a) the revenues, costs and expenditures of telecommunications services, stated on an itemised basis for each service market identified in Article 25 (2), and within such records the following shall be separately stated:
- b) the revenues, costs and expenditures of services provided in the form of dedicated tariff packages as universal services, in such a way as if each service was provided by independent enterprises.

(3) A universal postal service provider shall separate and show in its accounting system, in a controllable way, the revenues generated from universal and non-universal postal services, and within the scope of universal services separately show the revenues generated from each reserved service and non-reserved service and the related costs.

(4) The revenues of reserved services shall not be used for the covering of costs and expenditures of services other than those of the universal postal service.

(5) A communications service provider shall submit to the Authority by 30 June each year the previous year's audited data of the records kept according in accordance with the provisions laid out in paragraphs (1) to (4), and the data required for the auditing of its financial management and its compliance with the applicable regulations on pricing as well as for and its identification - as specified in a decree by the Minister heading the Prime Minister's Office (hereinafter referred to as 'Minister')..

***Termination of the provision of communications services,
winding up of a service provider***

Article 29

(1) The intended termination of the communications service shall be reported to the authority sixty days in advance - unless otherwise provided by this Act - and at the same time the service provider shall notify all users of the same. Upon the passage of such that sixty day period the service shall be struck off the register by the authority.

(2) Notification of the intended winding up a service provider shall be reported to the authority sixty days in advance, and at the same time the service provider shall immediately notify all users. Upon the passage of such that sixty day period the service provider shall be struck off the register by the authority.

(3) If the provision of service is terminated due to the winding up of the service provider only the notification obligation referred to in paragraph (2) shall apply.

Chapter IV

Provision for certain requisites for communications services by third persons

Use of property, shared use of facilities

Article 30

(1) In the course of the re-arrangement/development of the structure of a municipality, in the construction, modernisation and implementation or renovation of roads, public utilities, other buildings and facilities possibility for the installation of communications facilities shall be provided for, as specified in other legislation.

(2) Communications facilities shall be installed, at the discretion of the service provider, in public areas or based on shared use of existing communications facilities, or using facilities of other public utility providers. Where this is not possible, private area may be used for installation.

(3) Communications facilities may be installed in public areas owned by a municipality if no state-owned public area is available for this purpose or if installation in the latter is not feasible for technical reasons or due to prohibition by law.

(4) A party that orders construction (installation) of communications facilities shall restore the initial conditions of the environment after the completion of construction. The owner of any other facility, private area or public area owned by a municipality used for the installation of a communications facility may reach an agreement with the constructor on restoration to better than the initial conditions, provided that the costs arising in addition to restoration to the initial conditions are borne by the owner.

Article 31

(1) Should the owner of the property and the constructor fail to reach an agreement, the authority may - in the interest of the public - restrict the owner (manager, user) of the affected property, without the owner's consent, in the use of the property to ensure that the communications service provider can install on, below, above or in the property, building or structure the equipment, cables or antennas (hereinafter 'communications facilities') to be used for the purpose of communications services.

(2) An owner of the property shall be compensated in proportion to such restriction. In addition, the owner may exercise the rights identified in Article 108 (2) of the Civil Code.

(3) To ensure installation of communications facilities on real estate, and upon request by the service provider in respect of communications facilities already installed on real estate— in the interest of the public - the authority may establish a right of way or other usage right, by issuing a decree.

(4) The Authority may restrict the owner (manager, user) of the real estate concerned, without the owner's consent - in the interest of the public - in using the property to ensure that the communications service provider's authorised representative can enter the property - upon prior notice - for the purposes of inspection and maintenance of the communications facility and making necessary repairs.

Article 32

(1) Should the communications facility installed by a service provider result for the customers residing or staying in the direct proximity of the facility in better than average service provision conditions or additional services the service provider shall - in the subscriber contracts, or in any other way - not require a compensation for such improvement.

(2) The installation of a communications facility on a real estate shall ensure that it cannot disturb the owners of neighbouring properties in the exercise of their rights, or that such disturbance is reduced to the minimum possible extent allowed by the given circumstances. In this case installation and operation of the facility shall not be considered as unreasonable disturbance as defined in Article 100 of the Civil Code.

Other rules of cooperation

Article 33

(1) When removal or relocation of a facility constructed in compliance with all relevant regulations is necessary, such work shall be performed at the cost of the party in the interest of whom such work needs to be done. A facility shall be regarded as constructed in compliance with all relevant statutes when a retroactive permit for the retaining and operation of the facility has been obtained as defined in Article 48 of Act LXXVIII of 1997 on the development and protection of the man-made environment.

(2) When relocation is accompanied with modernisation or upgrading of the existing facility the associated costs shall be shared in proportion to the interest held therein.

Article 34

A communications service provider shall have the right to use rivers, channels and natural lakes, and the beds of such, as well as the airspace over Hungary for communications purposes.

Obligations of real estate owners in the interest of the public, in relation with the protection of communications

Article 35

(1) The owner or the person in possession of a given real estate shall remove any trees, bushes, branches and roots that endanger safe operation of communications. The costs incurred in connection with such removal shall be borne by the affected communications service provider.

(2) The affected communications service provider shall request the owner of the real estate concerned, in writing, to fulfil the obligation specified in paragraph (1). Should the owner fail to fulfil such obligation within fifteen days of the written request, the authority may - at the request of the service provider - issue a resolution imposing an obligation on the owner of the real estate to carry out such work.

PART THREE

RULES OF COOPERATION BETWEEN SERVICE PROVIDERS

General cooperation obligation

Article 36

(1) The telecommunications networks and the postal networks shall be operated under agreed technical conditions which ensure that the networks in both systems constitute a uniformly operating telecommunication and a postal system either through direct interconnection or with the installation of relevant interface units, network sections, components, equipment and services between them in the cases specified by law and international agreements. For this purpose the service providers shall cooperate on a bona fide basis, guaranteeing the equality of opportunities, enabling one another to access the necessary technical.

(2) In respect of network contracts the service provider that provides service on the network shall negotiate on cooperation with the other service provider that intends to conclude a contract even though there is no obligation on the former to conclude a contract.

(3) A service providers shall cooperate in the elaboration of the general technical, contractual and financial conditions that facilitate the shared use of communications facilities.

Chapter V

Cooperation under telecommunications network agreements

Scope of telecommunications network contracts, common rules

Article 37

(1) A telecommunications service provider may conclude telecommunications network contracts for definite or indefinite periods of time, subject to the conditions specified in this Act and specific laws issued pursuant to this Act, for the following:

- a) network access,
- b) interconnection of telecommunications networks,
- c) granting of right to partial or full use of unbundled access to the local subscriber loop.

(2) A dispute in connection with the existence of an obligation to conclude a contract may be referred to the Communications Arbitration Committee. If the Communications Arbitration Committee establishes the existence of an obligation it may exempt the service provider from the obligation to conclude a contract for a transitional period, if

- a) fulfilment of the obligation would not be economical for the party under the obligation and there is an alternative solution that is acceptable to the requesting party both in technical and financial terms, or
- b) the obliged party cannot fulfil the obligation for technical or financial reasons, but agrees to make its network suitable for the performance of obligation within six months.

(3) A network contracts shall be drawn up in writing and the parties shall provide for:

- a) the scope and aim of the contract,
- b) the service to be provided and its quality,
- c) the consideration to be paid,
- d) the maintenance of the operability of networks,
- e) the interoperation of services,
- f) end of the term of a contract concluded for a definite term, and notice period of a contract concluded for an indefinite term,
- g) the means of compliance with the data security requirements during service provision,
- h) the penalty to be paid in the case of breach of contract,
- i) the method of assuming liability and the extent of liability for services provided for third parties,
- j) other conditions considered by the parties to be necessary.

(4) Network contracts concluded between the telecommunications service provider and another service provider that it controls or by which it is controlled according to Act LVII of 1996 on the prohibition of unfair market behaviour and restriction of competition (hereinafter referred to as 'Competition Act') after the entry into force of this Act shall be submitted to the Authority for information within fifteen days of contract conclusion.

(5) During the performance of a contract the parties shall duly notify each other, including any changes planned to be made in the next six months that affect the essential content of the contract.

Network access contract

Article 38

A telecommunications service provider with significant market power shall conclude a network access contract - except where prevented by scarce natural resources – when a financially and technically reasonable offer is made for network access, and access shall be granted to any requesting enterprise - including its own subsidiaries - without any discrimination against the requesting parties in terms of technical, legal and financial conditions. The contract shall provide, in addition the factors required in Article 37 (3), for bearing the incurred and justified costs in connection with granting access.

Interconnection contract

Article 39

(1) Provider of telecommunications services owning or having a right to use telecommunications networks required for the provision of such services shall conclude a contract for interconnection when a financially and technically reasonable offer is made for interconnection between such networks.

(2) An interconnection contract shall include - in accordance with the reference offer specified in Article 40 - the items identified in Article 37 (3) and the identified geographical points of interconnection, technical and quality parameters and the identification of the interfaces.

Article 40

(1) Providers of telephone and leased line services with significant market power, and the owners of telecommunications networks required for the provision of such services shall elaborate a reference interconnection offer within thirty days of their identification as service provider with significant market power and submit the offer to the Communications Arbitration Committee for approval.

(2) A reference interconnection offer shall include

- a) the general conditions of interconnection,
- b) the geographically identified points of interconnection,
- c) the feasible technical solutions for interconnection,
- d) the transmission paths that can be used for interconnection,
- e) the offered interconnection services,
- f) the identification of interfaces,
- g) the description of service quality (including operation and maintenance conditions),
- h) the supporting services (operator assistance, emergency, directory services),
- i) the enhanced services,
- j) the conditions of carrier selection,
- k) the conditions of number portability,
- l) the prices calculated according to Article 42 (2) and their conditions of application,
- m) the conditions of granting space.

(3) A Communications Arbitration Committee shall approve and publish in the Communications Bulletin the draft reference interconnection offer within sixty days of submission. The detailed rules of this procedure are shown in Article 97.

Contract for granting use of unbundled access to the local loop

Article 41

(1) A service provider - possessing a local loop - with significant market power in the market of telephone services shall conclude contract for partial or full access to the local loop, under the conditions specified by law, when such offer is made and access shall be granted to any requesting party - including the enterprises which it controls or by which it is controlled according to the Competition Act - under identical

- a) technical conditions,
- b) legal and financial conditions.

(2) In the procedure referred to in Article 40 a reference interconnection offer for granting unbundled access to the local loop shall be published that shall include

- a) the general conditions of the granting of unbundled access,
- b) in the case of granting full unbundled access the possibilities of access to the network termination point of the local access network,
- c) in the case of granting partial unbundled access the possibilities of access to the transmission capacities still available in the local loop,

- d) in the case of granting unbundled access to the local loop the possibilities of installation of the requesting party's equipment and the technical conditions that can be ensured on the service provider under obligation's premises or the possibilities of alternative installation,
- e) all essential information on the architecture of the local access network required for the conclusion of the contract for granting unbundled access,
- f) the essential technical parameters of the wire pair used in the local access network,
- g) the specifications of the equipment used for the technology that can be used for broadband transmission in the local access network, the EMC requirements to be complied with for avoiding interference with other systems,
- h) the prices calculated according to Article 42 (2) and their conditions of application,
- i) the rules of cooperation between the parties,
- j) the schedule for the introduction of the service by geographical areas where the service provider will provide the service.

(3) A service provider with significant market power shall not be obliged to conclude a contract for granting use of unbundled access to the local loop with another service provider with significant market power in a much better position in terms of assets, finances and revenues and its influence on the development of the international communications market than itself or the other eligible parties.

(4) A service provider with significant market power shall not be under obligation to conclude a contract for granting use of unbundled access to the local loop if the request is technically not feasible or would result in impairment to the integrity of the network.

(5) If more than one service providers request use of full or partial unbundled access to the local loop the service provider under obligation to grant such use shall accept the offer determined most favourable by application of a transparent decision-making process.

(6) A contract for granting full unbundled or shared access to the local loop shall provide - in addition to the provisions of Article 37 (3) - that the service provider under obligation shall enable the requesting party to install the equipment required for the operation of the local loop and connect such equipment to the local loop.

(7) Other legislation will provide for the detailed rules of granting use of unbundled access to the local loop and the conclusion of the related contract.

Price to be paid for cooperation,

Article 42

(1) A service provider under obligation to conclude a contract pursuant to Articles 37 to 41 shall calculate the price to be paid pursuant to network contracts, and in the case of other forms of cooperation identified in Articles 44 and 45, on the basis of objective criteria, applying a transparent approach, on a non-discriminatory basis and in a controllable way.

(2) A service provider with significant market power in the market of telephone services and leased line services shall calculate the price to be paid pursuant to network contracts referred

to in paragraph 37 (1) (b) and (c), and a service provider with significant market power in the market of interconnection services shall calculate the price to be paid by a telephone service provider pursuant to contracts on interconnection of telecommunications networks applying the method of long-run incremental costs, separately stating in its books the costs of services, in a controllable way. Such calculated prices shall be submitted to the Communications Arbitration Committee for approval even if no reference offer is made.

(3) In the case of non-compliance with the provisions of paragraphs (1) and (2) or with the requirements of the reference offer in respect of the price the matter may be referred to the Arbitration Committee.

(4) In respect of a contract on granting use of unbundled access to the local loop paragraph (2) shall be applied only for a period of two years after granting use of unbundled access to the local loop.

(5) A service provider under obligation as per paragraph (2) may turn to the Arbitration Committee after the conclusion of a contract to request deviation from the service charge by not more than 20% as long as the other contracting party does not have the network required for the provision of service. The fact of having the network shall be proven by the service provider using the network service.

Invalidity of the network contract, liability for network contracts

Article 43

(1) A network contract concluded in breach of the provisions of Articles 37 to 41 shall be null and void. Application of the legal consequences laid down herein shall not prejudice the application of Article 200 (2) of the Civil Code in respect of declaring the invalidity of the unlawful provisions of contracts concluded in breach of this Act.

(2) In respect of late or faulty performance of a telecommunications service contract the service provider shall be liable for the decrease in the value of the property of the user.

(3) Claims in respect of telecommunications network contracts may be lodged within two years.

Chapter VI

Other cooperation obligations of the service providers

Multiplex service contract

Article 44

(1) A multiplex service provider shall conclude a contract when it receives an offer from an organisation authorised to provide broadcasting service on the frequency that may be used by a broadcaster having a contractual relationship with the multiplex service provider to ensure utilisation of the given frequency.

(2) A contract shall include the frequency served by the multiplex service provider and, in connection with the service, the following factors:

- a) conditions,
- b) quality parameters,
- c) the applicable charge.

(3) Should the negotiations conducted to conclude a multiplex service contract fail, the matter may be referred to the Communications Arbitration Committee for reconciliation.

Facility sharing contract

Article 45

(1) The owner of the communications facility, if its communications facility is used for the provision of communications services, shall conclude a contract for the shared use of its existing facilities if such offer is made by a service provider that cannot install its communications facility required for provision of service on its own property or - for technical or legal reasons - on public area. Such obligation shall not apply to parts of facilities (buildings) accessible for and used for serving customers.

(2) An owner shall not be under obligation to conclude a contract if any of the following circumstances exist:

- a) fulfilment of the offer would hinder the secure or normal operation of the existing facility,
- b) the party that has made the offer does not agree to pay the proven costs incurred in connection with the establishment and operation of shared use,
- c) shared use would gravely harm reasonable private interests ensuing from other legal relationships,
- d) the owner cannot ensure shared use due to the normal way of operation of its facilities.

(3) Where a communications facility needs to be modified for shared use the costs of modification shall be borne by the new user, with the exception of the documented justified costs of renovation. The costs (charges) of shared use shall be shared by the parties, in proportion to their respective shares of the usage of the facility in question.

(4) If the owner is not under obligation to conclude the contract for a reason identified in paragraph (2) d), the party that made the offer may take measures to make the communications facility suitable for shared use. The parties shall reach an agreement on bearing the justified costs incurred for the purpose of making the facility suitable for shared use in proportion to their respective interests held therein.

(5) If the parties cannot agree on modification, shared use or the way of share use of existing facilities, the associated offer, the costs and charges of maintenance of the same, the matter may be referred to the Communications Arbitration Committee for reconciliation.

Standardised use of identifiers

Article 46

(1) To ensure the operation of the networks in a single uniform system of identifiers, service providers shall implement standardised use of the identifiers in the technical systems of their networks according to ANFT.

(2) To ensure the operation of the networks in a single uniform system of identifiers, service providers shall accept any justified enhancements of the identifiers made within the scope of each other's scopes of interests within the framework of the ANFT ahs shall implement access to such using their own facilities.

(3) In the case of any dispute in connection with the obligation to cooperate as specified in paragraph (2) the Communications Arbitration Committee shall make a decision after a reconciliation procedure.

PART FOUR

PROVIDING FOR PROPER SUPPLY TO USERS AND FOR THE ACCOMPLISHMENT OF OTHER OBJECTIVES OF PUBLIC INTEREST IN COMMUNICATIONS

Chapter VII

Universal communications service

Content of universal communications services

Article 47

(1) Universal communications services shall include universal telecommunications services and universal postal services.

(2) By 31 May each year, the Chairman of the Authority may, in agreement with the National Communications and IT Council, submit an initiative to the competent person requesting that the Government should propose a Bill to amend the range of universal communications services and the services identified in Article 49 (1) and (2), with effect from 1 January of the following year.

(3) Universal telecommunications services include the following services:

- a) access to the telephone service that ensures accessibility in all areas of Hungary under the same conditions at a fixed subscriber network terminal point (such access provides for the use of circuit-switched telephone service, sending of fax messages in accordance with the ITU-T 'T' series of recommendations, and modem-based data transmission of at least 9600 bps transmission rate in accordance with the ITU-T 'V' series of recommendations);
- b) operation of one public payphone per five hundred residents and of one public payphone in each municipality with fewer than five hundred residents, and operation of a public payphone that is suitable for use by customers with hearing or motoric disabilities per two thousand five hundred residents;
- c) maintenance of operator-assisted services and making a list of customers available, and
- d) free emergency calls.

Article 48

- (1) Universal postal services include the following services:
- a) postal services relating to the delivery of domestic and international postal consignments up to two kilograms in weight;
 - b) postal services relating to the delivery of parcels within Hungary and from Hungary to abroad up to ten kilograms in weight and from abroad to Hungary up to twenty kilograms in weight;
 - c) postal services relating to the domestic and international delivery of consignments containing materials written in Braille for the blind, up to seven kilograms in weight;
 - d) postal money order service within Hungary;
 - e) extra services: acknowledgement of receipt and insurance of value available along with the services specified in points a) to c), registered service in connection with the services specified in points a) to c) and acknowledgement of receipt in connection with the service specified in point d).
- (2) Irrespective of the weight limits specified in paragraph (1) courier, express delivery and document exchange services shall not be considered universal services.
- (3) Universal postal services shall be provided in the whole of the territory of Hungary, the particular services included in universal postal services shall be provided in the geographical areas specified in the licence for service provision through ensuring - with the exceptions specified by law - collection of postal consignments and - with the exceptions specified by law - delivery once every workday.
- (4) In the Universal Postal Union (UPU) the Hungarian administration shall be represented by the Ministry responsible for the communications industry, the Chief Communications Inspectorate and the assigned universal postal service provider.

Rights of a universal postal service provider

Article 49

- (1) To ensure the financial conditions required for the secure, ongoing provision of universal postal services the following reserved services may be provided only by the designated universal service provider:
- a) postal services relating to the delivery of domestic and international mail consignments and addressed advertisement items up to three hundred and fifty grams in weight, provided that the tariff of the service is lower than five times the charge of delivery of a mail consignment in the fastest delivery standard category, and the first weight class;
 - b) postal services relating to official documents.
- (2) A designated universal postal service provider shall have an exclusive right
- a) to issue, sell and withdraw postage stamps, use postal value articles and stamps bearing the word “Hungary” or its equivalents in foreign languages;
 - b) to use the post horn logo;
 - c) to provide postal payment and financial services.

d) to provide domestic postal money order service.

(3) A universal postal service provider may use technical equipment or traps - that do not cause injury or health impairment – to detect perpetrators of crimes and to avoid the committing of criminal acts against the service provider, based on authorisation granted by the organisation authorised to investigate such crimes.

Universal communications service providers

Article 50

(1) Universal services may be provided by

- a) a concession company pursuant to its Concession Contract during the term of the Concession Contract;
- b) other telecommunications service providers pursuant to a universal service contract;
- c) the universal postal service provider according to assignment.

(2) In decision making concerning the granting of a right to provide universal services, coverage of the entire territory of Hungary by universal services shall be ensured.

(3) Universal services may be provided by shareholder companies. A universal postal service provider enterprise may have one member or shareholder.

(4) The Minister shall invite proposals in the Communications Bulletin and a daily paper of nationwide circulation, for the provision of universal services if

- a) provision of the universal service is not fully guaranteed under the contract referred to in paragraph (1) a) and b), or
- b) the scope of universal services is broadened and the procedure identified in Article 54 (2) is not successful, or
- c) the incumbent universal service provider intends to terminate provision of the universal service.

(5) A bidder shall present its offer concerning the items specified in paragraph (7). The Minister shall make a decision, in consideration of the tariffs and quality of the universal service, on the bidder to be granted the right to provide universal service.

(6) Should the procedure identified in paragraph (5) fail, the Minister shall assign a service provider with significant market power in the market where the universal service needs to be provided for provide the universal service.

(7) A Minister shall conclude a universal service contract with the universal service provider selected according to paragraphs (5) and (6) in which the parties shall agree on the following:

- a) the geographical location and the method of the provision of the universal services;
- b) the duration of provision of the universal services, or in the case of an indefinite term contract the notice period,

- c) the financial and other conditions of the provision of the universal services,
- d) the method and legal consequences of termination of contract before the end of term,
- e) the rights of the Minister or other organisation authorised by the Minister in connection with the controlling of compliance under the conditions of the contract.

(8) If the provision of the universal services to certain access points using the universal service provider's network and equipment would require disproportionately high costs the universal service provider may request the Communications Arbitration Committee to permit provision of the universal services using a different technology where necessary, through one or more other service providers. The draft agreement between the service providers and a detailed presentation in proof of that such solution would have a beneficial impact on the funding requirements, referred to in Article 53 (6), of the Universal Telecommunications Service Fund identified in Article 53 (1), shall be attached to the request.

(9) In the case referred to in paragraph (8) the Communications Arbitration Committee may specify service requirements other than - but adequately substituting - those identified in Article 47 (3).

(10) Even in the case referred to in paragraph (8) a universal service provider shall remain liable for provision of the universal service and shall have the obligations defined in connection with the universal service in Articles 27 and 28.

Cooperation between universal telecommunications and postal service providers in the area of telegram services

Article 51

(1) Telegram service shall be provided by the universal telecommunications service provider and the universal postal service provider.

(2) A universal telecommunications service provider and the universal postal service provider shall make the use of the telegram service accessible for everybody according to the detailed conditions laid down in other legislation.

(3) Service provider identified in paragraph (1) shall cooperate with each other for the purpose of the provision of telegram service and shall; conclude a contract with each other concerning such cooperation (telegram service contract).

(4) Should the negotiations conducted for the conclusion of a telegram service contract fail, the Communications Arbitration Committee shall conduct a reconciliation procedure.

Financing the universal communications service

Article 52

(1) To ensure affordability of the universal telecommunications service the universal service provider shall elaborate, pursuant to other legislation, discount tariff packages dedicated to

specific consumer groups. Should the conditions of the tariff packages not exclusively serve fulfilment of this objective any of the affected service providers may refer the case to the Communications Arbitration Committee.

(2) A service provider shall be entitled to compensation according to Article 53 for its reasonable and recognised additional costs incurred in connection with provision of the universal communications service in addition to its estimated costs that would be incurred on the basis of exclusively business considerations.

(3) A amount of compensation requested in respect of the universal communications services shall be based on the loss of revenue caused by the provision of universal service based on targeted tariff packages, while in respect of the universal postal services it shall be based on the additional financial expenditures identified in paragraph (2). To calculate such compensation the universal service provider shall elaborate its proposal for the cost of the service provided at a discount using the long-run incremental costs method, separately showing the costs of such services, in a controllable way. The service provider shall submit the costs proposal to the Communications Arbitration Committee for approval. The methods to be applied for the calculation, compensation and sharing of the costs incurred in connection with the universal communications services shall be determined by the Minister in a decree.

Article 53

(1) To compensate for the financial burden resulting from the provision of universal services a Universal Telecommunications Service Fund and a Universal Postal Service Fund (hereinafter 'Funds') shall be set up. The Government shall determine the detailed rules of operation, resources, supervision of and making expenditures from the Funds.

(2) A Funds shall qualify as legal persons. Their headquarters shall be in Budapest. The Funds shall be managed by the Minister.

(3) The equity of the Funds shall not be divided, neither corporation tax, nor local tax, nor dues shall be paid on their assets, revenues and income of the Fund, financial assets shall not be withdrawn from the Funds and shall not be spent on other than the purposes specified in paragraph (7). Payments to and from the Funds shall not be subject to VAT payment.

(4) A State Audit Office shall be responsible for financial and accounting control of the Funds.

(5) Payments to and from the Funds and related to the given year shall be made each quarter. In the first two quarters payments to and from the Funds shall be made in an amount equal to the payments made in the last quarter of the previous year, in the third and fourth quarters payments shall be made on the basis of the audited annual report on the previous year. The difference between the payments to and from the Funds made in the first two quarters and the amount calculated for that period on the basis of the audited annual report shall be settled in the payments to be made to and from the Funds in the third quarter.

(6) A telecommunications service provider shall make payments to the Fund in the amount of a certain percentage - calculated according to relevant law on the basis of the funding requirement - of its annual net revenues generated from telecommunications services less its

expenditures on interconnection and revenues generated from universal services provided on the basis of targeted tariff packages, while a postal service provider in respect of its annual net revenues generated from provision of postal services not included in the scope of universal services.

(7) The revenues of a Fund shall be spent exclusively on grants to support the provision of universal services, and to cover extraordinary expenditures required for the transitory measures resulting from withdrawal from market, and to cover the costs incurred in connection with the operation of a Fund.

Controlling, modification and termination of a universal communications service

Article 54

(1) The authority shall continuously control the universal service providers in respect of the performance of the activity and the performance of the contracts. The authority shall indicate to the minister if any non-performance of the contractual obligations is identified. A universal service provider shall continuously supply to the authority the data on the performance of obligations required for the control. The assessment data on performance of obligations are public.

(2) If the scope of universal services or the related detailed legal requirements are modified, the universal service contract shall be revised by the contracting parties and, in the case of Concession Contracts, the procedures specified in such Contracts shall be applied.

(3) If the universal service provider fails to fulfil its contractual obligations, the Minister shall provide for the selection of another universal service provider. As a temporary measure the Minister shall designate the service provider with significant market power in the market of universal service as a substitute service provider. Simultaneously with this temporary measure the Minister shall act according to Article 50 (4).

(4) A contract concluded for the provision of universal services may be terminated by the service provider with a notice period of at least one year. The incumbent universal service provider shall undertake and, up to the end of the notice period, meet the requirement that in case the new entrant universal service provider does not have the capacity required for the fulfilment of its service provider obligation, the incumbent service provider shall reach an agreement with such service provider on transferring the right of ownership or right to use the facilities and equipment required for the provision of the universal service. If they fail to reach such agreement the case may be referred to the Communications Arbitration Committee.

(5) The provision of universal services may be suspended - with the exception of the cases identified in paragraph (6) - only with the prior written consent of the Minister and giving satisfactory notice to all affected customers in due time.

(6) A provision of universal service may be suspended

- a) in the case of unforeseeable, inevitable external reasons (force majeure),

- b) in the case of a technical failure that can only be repaired while service provision is suspended, or during maintenance that shall not take longer than the limit laid down in other legislation,
- c) for the protection of the interests of the Republic of Hungary in respect of defence, national security, financial and public security (in particular, prevention of terrorism and fight against drug traffic) in a way specified by laws.

Chapter VIII

Rules on data management

Data supply

Article 55

(1) All data related to the communications service or activity required for the use of the services, interconnection, access, implementation of granting use of unbundled access to the local loop, and for the performance of the tasks of the Authority identified in Article 70 (1) shall be supplied to the Authority by the party performing the given activity and the service provider in the way and in the cases specified by law, even if such data qualify as business secrets.

(2) Data specified by law shall be made available by service providers for the public.

(3) In the course of data provision as per paragraphs (1) and (2) the provider of the data shall bear responsibility for the adequacy, timeliness, authenticity, correctness and controllability of the data.

Protection of privacy

Article 56

(1) A service provider may get to know the content of items or messages delivered or transmitted by the service provider or through its networks only to the extent that is required for the provision of service.

(2) If any communication or private data is disclosed to the service provider during the provision of service, it may not disclose their content to others.

(3) No communications that have not been intended for the public shall be received and the contents of such communications shall not be disclosed or used.

(4) A service provider shall inform the users in the subscriber contract about the conditions of the handling of their data (including the types of data to be handled, the purpose and duration of their storage and potential transmission, the provision for the transmission of data), and the related rights and obligations of the users.

(5) A service provider shall notify the national security service concerned upon any request for data concerning protected telephone numbers of the service that have been classified as state secret.

(6) In addition to the service provider's obligations related to the protection of data and privacy specified in paragraphs (1) - (5) the special conditions concerning the protection of privacy, the detailed rules of the handling of traffic and billing data and the conditions of identifier presentation and call forwarding will be specified in separate legislation.

Article 57

(1) The obligation to protect privacy shall apply to the service provider's employees, members, agents to the same extent as to the service provider and they shall be liable according to laws for any breach of such obligation.

(2) The obligation to protect privacy specified in paragraph (1) shall apply to an employee even after the end of his/her employment, to a the member after end of his membership, and an agent after the end of his assignment.

Article 58

(1) By applying the relevant technical and organisational measures a communications service provider shall provide for the protection of secrecy of consignments communications carried by the communications services, and prevention of illegal access (tapping) to the greatest possible extent.

(2) Monitoring, tapping and the storage of consignments or communications or the use of any other method of intervention or monitoring without the consent of the affected users shall be prohibited - with the exception of the cases specified in respect of the national security services and the investigating authorities, and the exercise of the rights of the communications authority identified in Article 79 (4).

(3) In the case of threat to life, health or property, or blackmailing the investigating authority may, upon written request by the user, monitor and record - using technical facilities - the contents of telephone calls made on the user's telephone set or the relevant e-mail communications and the persons making such communications within the period identified in such request.

Usage and billing data

Article 59

(1) A telecommunications service providers shall, after the end of the call (with the exceptions specified in paragraph (2)), delete or remove the personal features of the personal data related to customers and users, generated for the purpose of setting up the calls.

(2) A telecommunications service provider may handle the following data for the purpose of billing to customers and users, collection of associated charges and monitoring subscriber contracts:

- a) mandatory components of the subscriber contract specified by law,
- b) telephone number and other identifiers of the telephone line,
- c) address of the customers and type of the line,
- d) total number of units to be accounted in the period covered by the bill,
- e) the calling and the called line numbers,
- f) the type, direction, time of the beginning and the duration of call or other service, and/or size of the transferred data, in respect of mobile systems the network and the cell that provided the service, and the individual identifier of the device used for the service (IMEI),
- g) date of the call or other service,
- h) data related to payment of charges and default in payment,
- i) events of subscriber contract termination in the case of non-payment,
- j) in respect of telephone and mobile services the data related to other non-telecommunications services available to the customers and users, in particular to their billing.

(3) A data identified in paragraph (2) a) may be managed until the end of the contract, the data specified in points b) to j) up to six months after the payment of the bill or until the end of the period of limitations concerning telephone bill debt, according to Article 16 (2), unless other periods are required by law for data processing.

(4) A telecommunications service provider may manage the data specified in paragraph (2) for its own marketing purposes with the consent of the customers.

(5) The data specified in paragraph (2) may be disclosed to

- a) the entities performing, on behalf of the telecommunications company, tasks of billing, management of receivables, management of sales and the supply of information to customers,
- b) organisations authorised by law to settle billing or traffic disputes,
- c) national security organisations, investigating authorities and courts, properly authorised for purposes of protecting public security, national defence and public security, persecution of civil law crimes and illegal users of the telecommunications system.

(6) In respect of the data disclosed under paragraph (5) entities to which such data are disclosed shall be bound by the same confidential obligation that is applicable to the service provider.

Article 60

(1) A telecommunications service provider may disclose to or receive from other telecommunications service providers the names of subscribers and the data specified in Article 59 (2), points a) and c) required for identification of subscribers, as well as information about the reasons of data supply as specified in paragraph (2), and set up a joint database holding such data for the purpose of preventing evasion of charge payment or of other contractual obligations, or - if the conditions identified in Article 15 (2) are met - to refuse to conclude a contract.

(2) Data of a subscriber may be disclosed or entered in the joint database, subject to the conditions specified in Article 15 (2), if

- a) the service provider has terminated the contract or partly or fully suspended provision of service to the subscriber due to default in the payment of its bills, or
- b) the service provider has initiated court or other official proceedings against the subscriber due to default in the payment of its bills, or the place of residence of the subscriber is unknown, or
- c) the party making an offer or the subscriber has deceived or intends to deceive the service provider in order to cause damage (in particular if the document used for identification is false, falsified or invalid).

(3) A service provider shall immediately notify the subscriber about such disclosure (handing over) of data.

(4) In respect of the management of the joint database and its duration the provisions of Article 59 (3) shall be applied. The data may exclusively be used for the purpose identified in paragraph (1).

(5) Supply of data from the database may be requested by

- a) the telecommunications service provider exclusively for the purpose identified in paragraph (1),
- b) the organisation or authority identified in Article 59 (5).

(6) The parties concerned shall agree, in writing, on the establishment of a joint database, on the commissioning of the data processing personnel and their rights and obligations.

Article 61

(1) Upon the conclusion of a subscriber contract the customer shall expressly and clearly be informed about

- a) handling the customer's data as per Article 59 (2),
- b) the cases when the data managed by the service provider may be handed over to another service provider and the service providers that may be recipients of such data,
- c) the decisions that may be taken by the telecommunications service provider on the basis of such data,
- d) the legal remedy available for the customer,
- e) the entity managing and processing the joint database, the place (address) of data management and processing.

Article 62

Telephone books, subscriber lists, address directories

(1) Printed or electronic telephone books, subscriber lists and address directories, either published or available at information services, may only contain such data of the customer without his voluntary and clear consent as are indispensable for the customer's identification.

(2) Upon request, a customer shall be granted right to the following:

- a) not to be included in printed or electronic telephone books, subscriber lists and address directories without additional cost,
- b) indication in the telephone book that the personal data of the subscriber may not be used for direct marketing purposes,
- c) to have only part of the subscriber's address displayed in the telephone book.

Article 63

(1) A telecommunications service providers may use the data in the address directories to provide information service from the data contained in the address directory. When providing such service only the data contained in the address directory may be supplied to service users, unless the affected customer consented to the supply of additional data.

(2) Relevant technical solutions shall be used to ensure security of data retrieval from the address directories and prevent abuse of the same, in particular the downloading of data.

(3) Data contained in the electronic address lists shall not be linked to other data or records, unless it is necessary for the telecommunications service provider for operational reasons.

Utilisation of data for direct marketing purposes

Article 64

- (1) An automated calling system that does not necessitate human intervention may be used for direct marketing purposes only with the prior consent of the customer.
- (2) Direct marketing materials shall not be transferred to a customer by phone or other means of telecommunications if the customer has expressed his wish not to obtain any advertisement materials.

Special obligations of the postal service provider to protect data and privacy

Article 65

- (1) According to the obligation for protection of privacy the postal service provider:
 - a) shall not open closed postal consignments;
 - b) may inspect postal consignments not sealed, only for the purpose and to the extent required to establish data required for taking over, forwarding and delivery of such consignments;
 - c) shall not disclose to third parties the data acquired during the provision of the service - except to the sender, the addressee and the addressee's representative authorised to receive the item;
 - d) shall not hand over a consignment to any third party in order to find out about its contents – except to the sender, the addressee, the addressee's representative authorised to receive the consignment or to organisations identified in paragraph (4); and
 - e) shall not provide information for any third party about the provision of service - except for the sender, the addressee, the addressee's representative authorised to receive the item and the organisations identified in paragraph (4);

with the exception of the cases specified in paragraph (2).

- (2) A postal service provider may open a closed postal consignment if
 - b) the packaging or cover of the item is impaired to such extent that opening is warranted for the protection of the content of the item and repackaging without the opening of the consignment would not be possible, or
 - c) opening is justified in order to avoid an emergency situation caused by the contents of the item;
 - d) in the case specified in Article 21 (6).

(3) A consignment shall be opened by a committee comprised of at least two persons who shall record the procedure the opening of the consignment along with the measures to be taken, in minutes. If such committee cannot be set up, the consignment may be opened in the presence of an authorised representative of the municipality. The fact of the opening of a consignment shall be recorded on the consignment and, if possible, the sender shall be notified of the opening and the reason for opening of the consignment.

(4) According to relevant laws the postal service provider shall hand over, subject to the conditions required by law, a postal consignment to the organisations authorised to check its contents.

PART FIVE

DUTIES OF THE STATE ASSOCIATED WITH COMMUNICATIONS, THE RELATED ORGANISATION SYSTEM AND PROCEDURES

Chapter IX

Duties of the state

Article 66

- (1) For the purposes of this Act the following shall qualify as duties of the State:
- a) development of a national communications policy, provision for the requisites of the implementation of such policy;
 - b) enforcement of the requirements of the government, national security, the judicature, law enforcement and defence demands, along with the controlling implementation of the same;
 - c) performance of international duties associated with communications;
 - d) regulation of the communications market, definition of the conditions of market entry, providing for the equality of opportunities for the participants of the market;
 - e) efficient operation of the state institutions of communications, cooperation with the communications and IT unions;
 - f) guaranteeing the availability of the requisites for universal service provision;
 - g) efficient management of scarce resources;
 - h) harmonisation of the communications regulations with data protection, the protection of consumers and that of the environment;
 - i) providing for interoperation and cooperation between communications networks, service providers and services;
 - j) providing for the availability of the organisational and operational requisites for the enhancement of the security of communications and preparation for the tasks to be carried out in extraordinary/emergency situations in accordance with national and international principles;
 - k) operation of the information and statistics system required for the activities related to communications, their regulation and monitoring.
- (2) In respect of communications the State shall, in particular, provide the financial requisites for the performance of the following duties:
- a) claims for compensation in respect of frequency management made under this Act and its implementing statutes,
 - b) payment obligations in connection with concession contracts concluded before the entry into force of this Act,
 - c) contribution to the creation of the organisational and operational requisites for the enhancement of the security of communications and preparation for the tasks to be carried out in extraordinary/emergency situations,
 - d) contribution to the mandatory developments of service providers required by law.

- (3) In performing its duties the State shall enable consumers to express their opinions.
- (4) The duties of the State specified in paragraph (1) shall be performed - in accordance with the distribution of tasks specified in this Act and other legislation - by the Government, the Ministries, the Chief Public Prosecutor and the relevant authorities.
- (5) The financial resources granted for the performance of the duties of the State specified in paragraphs (1) and (2) and in other legislation shall be determined by the Act providing for the annual State budget.

Performance of the duties of the State

Duties of the Government

Article 67

The following duties of the State shall be performed by the Government:

- a) development of the communications policy, the principles of and requisites for the communications and IT activities and services and the management of scarce resources, along with the State programs aimed to improve the infrastructure of the information society;
- b) management of the performance of international tasks associated with communications and IT;
- c) conclusion of international contracts on the subjects set forth in point b), providing for the representation of the Republic of Hungary in various international organisations for communications and IT;
- d) establishment of all duties and powers - associated with communications and not regulated by legislation - that are beyond the duties and powers of the Minister;
- e) provision for the efficient protection of the consumers' interests through the minister responsible for the consumer protection-related duties of the State,
- f) provision for the organisation, operation and management of the authority responsible for non-civil frequency management, establishment of the rules applicable to non-civil frequency management;
- g) provision for the allocation of frequency bands to civil and non-civil purposes and sharing them among radio services, specification of the National Table of Frequency Allocations and revision of the same when needed, but at least every three years;
- h) specification of a regime to guarantee the security of communications and preparation for the tasks to be carried out in extraordinary/emergency situations, making available the requisites for the duties to be performed by the State administration;
- i) specification of the requisites for the protection of the general and special interests of national security in the area of communications and the rules for the monitoring of the provision of such requisites;
- j) the Government may temporarily restrict or suspend the provision of communications services pursuant to Act CX of 1993 on national defence, Act XXXVII of 1996 on civil defence, Act LXXIV of 1999 on management and organisation of the prevention of disasters and protection against serious accidents

caused by hazardous materials and may authorise the Minister to carry out such tasks.

Responsibilities of the Minister

Article 68

(1) Pursuant to this Act and the laws providing for his responsibilities and powers the Minister shall act as follows:

- a) submit to the Government a proposal for the communications policy and ensure fulfilment of the related resolution;
- b) coordinate the civil, governmental, national security, jurisdiction, law enforcement and defence related activities associated with communications and IT;
- c) designate the communications service providers to be involved in the performance of national defence tasks, identify the tasks to be carried out in preparation for extraordinary/emergency situations;
- d) prepare the international activities of the Government relating to communications and IT, ensure compliance with international obligations, represent the Republic of Hungary in international organisations for communications and IT and sign international cooperation agreements not requiring authorisation by the Government;
- e) exercise the ownership rights of the State in respect of scarce resources, direct the management of such for civil purposes;
- f) perform ministerial tasks - in agreement with the minister responsible for the given issue - associated with international obligations related to non-civil frequency management;
- g) contribute - pursuant to special laws - to the performance of national security and defence tasks associated with communications;
- h) approve the annual postage stamp issue plan;
- i) provide for the creation, operation and development of the statistical information system required for the performance of his duties and exercise of his powers - according to the Act on Statistics;
- j) elaborate concepts and programs for the development of the communications activities, contribute to the requisites for their implementation on the basis of the elaborated concepts;
- k) provide for the improvement of the standards of communications services by promoting standardisation and research and development;
- l) monitor the status of the provision of universal services and take the necessary measures to ensure the provision of service;
- m) perform, in agreement with the involved minister responsible for the given issue, the duties associated with the regulation of prices;
- n) provide for the allocation of identifiers to activities and services and for the issuance of the ANFT;
- o) designate the organisations to be in charge of the testing, inspection and certification of the conformity of communications services and equipment and - unless otherwise provided by law - IT products;
- p) perform the activities pertaining to the concession contracts in effect.

(2) The Minister may temporarily restrict or suspend the communications activity - based on a case-by-case authorisation by the Parliament - in a state of emergency or extraordinary situation and in the case of natural disasters threatening human life or property, to avert such or to prevent its consequences.

Article 69

(1) The Minister shall make a proposal for the frequencies allocated to the radio services and shared between civil and non-civil purpose frequency utilisation, the shared frequency bands, the frequency bands which are assignable to certain radio applications or reserved or planned and the conditions of opening and releasing of frequency bands to be identified in the FNFT.

(2) A Minister shall ensure, in the FNFT, protection of the radio services, and the frequency bands used in connection with Hungary's NATO membership.

(3) A Minister shall provide in the FNFT for the utilisation of frequency bands that are available for allocation. The frequency band utilisation rules shall include

- a) the features of a frequency band from the aspect of frequency allocation and the characteristics of the radio systems and radio equipment;
- b) the method of frequency allocation, in particular that
 - ba) frequencies may be assigned on a first come first served basis, or
 - bb) the right to use a frequency may be obtained through tendering or auction, and
 - bc) in the case of point bb) the conditions and restrictions applicable to the obtaining of the right to use a frequency, and
 - bd) whether the right to use a frequency may be sold.

(4) The duties relating to frequency management for non-civil purposes shall be performed, in agreement with the Minister, by the Minister of Defence, with the exception of paragraph (1) (f).

(5) The Minister shall manage the identifiers and their domains, which are scarce resources, required for the operation of the communications networks, the provision of communications services and interoperation and cooperation of communications networks and services.

(6) As part of the identifier management activities the Minister shall publish, in a decree, and revise at least every three years, the allocation of all of identifiers to activities and services, along with the ANFT that defines the type, structure and scope identifiers and the standardised rules of the application of the ANFT:

(7) Undisturbed, clear accessibility to the services, equal opportunities for the market players, efficient utilisation of the identifiers to efficiently protect the interests of the users and service providers shall be ensured as part of the identifier management activities.

Chapter X

The Communications Authority

Article 70

Organisation of the Authority, distribution of powers

(1) The Communications Authority (hereinafter referred to as 'Authority') shall be a central state administration organisation with legal personality and nationwide powers, operating independently of the market players, reporting to the Government and the Minister, performing the duties assigned to the Authority by law or by Government decrees.

(2) The objective of the activity of the Authority is to promote undisturbed, successful operation of the communications market, to protect the interests of both the entities performing communications activities and the users, to promote the maintenance of a fair and regulated market competition in the communications industry through supervision of compliance with the laws of the behaviour of organisations and persons performing communications activities.

(3) The Authority shall be comprised of the following organisations: Chief Communications Inspectorate, Communications Regional Office (hereinafter together referred to as 'authority') and the Communications Arbitration Committee.

(4) The authority shall be responsible for matters related to the reporting of communications services, frequency management for civil purposes, identifier management, individual licensing, interference prevention, market surveillance and other matters assigned to the competence of the communications authority.

(5) Upon request or in the cases identified in this Act on an *ex officio* basis, the Communications Arbitration Committee (hereinafter referred to as 'Arbitration Committee') shall perform its duties, as defined in this Act, relating to the identification of the service providers with significant market power, approval of reference network contract offers, promotion of the performance of cooperation obligations, exemption of service providers from the obligation to provide universal services, prices of network services, settlement of disputes about the financing of the universal services, and may decide, at plenary meetings, on issues of conceptual importance in respect of communications.

(6) In respect of the organisation system the Chief Communications Inspectorate shall

- a) act as authority of the second instance in respect of decisions made in the first instance by the Communications Regional Office,
- b) publish the required registers,
- c) issue an official journal called the Communications Bulletin,
- d) contribute to the efficient operation of the communications organisation system.

(7) The rules of organisation and operations of the Authority shall be approved –in agreement with the Minister - by the Chairman of the Authority.

Financing of the Authority

Article 71

- (1) The Authority is an independent central state administration organisation pursuing its own financial management, covering the expenditures of the performance of its duties from its revenues.
- (2) The Authority generates revenues from the fees paid for the assignment and use of frequencies, for the reservation and use of identifiers, for the procedures of the authority and the Arbitration Committee, and the market surveillance fee, which shall be spent on the efficient, high-standard professional operation of the Authority.
- (3) The Authority shall be entitled to a market surveillance fee to be collected from the communications service providers for the market surveillance activity of the Authority. The amount of the fee shall be not more than 0.5% of the annual net revenue of the communications service, while in respect of postal services not more than 0.2%, as regulated each year by legislation within the limits identified in this Act.
- (4) The market surveillance fee shall be paid to the Authority on a quarterly basis by the end of each quarter.
- (5) If in a fiscal year the revenues of the Authority defined in this Act exceed the total expenditures of the performance of the tasks specified by law the surplus shall be credited, after the approval of the annual report of the Authority, to the next year's market surveillance fees in proportion to and not exceeding the market surveillance fees to be paid in the given year.

(6) The Chairman of the Authority shall publish, in the Communications Bulletin, not later than 28 February each year, the annual budget of the Authority to inform the market players about the financial management of the Authority.

Management of the Authority

Article 72

(1) The Chairman of the Authority shall be appointed for a period of six years by the Prime Minister based on the recommendation of the Minister.

(2) The Minister shall put out a public invitation of applications for the position of Chairman upon the expiry of the mandate of the Chairman. Such applications shall be invited ninety days before the end of mandate of the Chairman in the case referred to in Article 74 (5) (a).

(3) The applications shall be reviewed and evaluated by the National Communications and IT Council (hereinafter referred to as 'NHIT') within thirty days after the deadline for submission of applications. The NHIT shall submit a written report to the Minister on the result of evaluation, the order of applicants and the reasons for its proposals.

(4) A Minister shall make a recommendation to the Prime Minister within thirty days after the evaluation by NHIT concerning the person to be appointed as Chairman of the Authority and at the same time the Minister shall initiate the conducting of a national security audit as required by other legislation.

(5) With the differences laid down in Article 86 (4) the Chairman and the civil servants of the Authority shall not have shares or hold offices in enterprises generating revenues on the communications or IT market - in addition to the regulations on conflicts of interests and on exclusion laid down in Act XXIII of 1992 on the legal status of civil servants (hereinafter 'Civil Servants Act').

(6) Only persons with respect to whom the procedures defined in paragraphs (3) - (4) have been conducted may be appointed to this position.

(7) The employer's rights shall be exercised with respect to the Chairman - with the exception of appointment and dismissal or release - by the Minister.

(8) The Chairman shall report to the Government on an annual basis - by 30 April of the year following the year covered by the report - on the activities and financial management of the Authority and the status of the communications market. The approved report shall be published by the Chairman in the Communications Bulletin by 30 June. An analysis of the operation of the communications market shall be attached to the report.

Article 73

(1) The Chairman of the Authority shall

- a) direct the activity and the working organisation of the Authority,
- b) exercise the employer's rights over the civil servants employed by the Authority,

- c) act as Chairman of the Arbitration Committee; the Chairman may transfer performance of parts of the tasks of the direction of the activities and the organisation, to members of the Arbitration Committee,
- d) contribute to elaboration of legislation associated with his/her powers, request the competent person to develop legislation relating to his/her powers,
- e) comment on draft communications legislation and other proposals submitted to the Government,
- f) perform all tasks assigned to his/her powers by laws.

(2) The Chairman shall set up and operate the Service Providers' Consulting Body (hereinafter referred to as 'Body') in which various interest groups of the service providers - according to the types of services provided, the technical features of their networks and other facilities and their financial powers - shall be represented with equal rights.

(3) The Chairman shall invite the Body to state its position on essential issues affecting the communications industry and the Body shall have the right to request the Chairman for a permit to express opinion at public hearing to the authority that applies the communications legislation and the Arbitration Committee.

(4) The Arbitration Committee shall, at least once a year, inform the Body of its experience and practices developed in the area of the identification of service providers as service providers with significant market powers and that of reference offers. The Body shall have the right to comment on information received from the Arbitration Committee.

(5) The opinion of the Body formed in accordance with the provisions laid out in paragraphs (3) and (4) shall be referred to in the annual report of the Authority.

Article 74

(1) The provisions of the Civil Servants Act shall apply to the Chairman and the employees of the Authority and to members of the Arbitration Committee with the differences specified in this Act, providing that the ratio specified in Article 30/A (1) of the Civil Servants Act shall be 35%, the ratio specified in Article 42 (5) b) shall be 48%, the extra remuneration to be paid to civil servants with secondary school qualification specified in Article 44 (1) shall be 35%.

(2) The Chairman of the Authority shall be entitled to a monthly salary and benefits equal to the monthly salary and benefits of Deputy State Secretaries.

(3) The members of the Arbitration Committee shall be entitled to a monthly salary and benefits equal to the monthly salary and benefits of Heads of Main Department as determined in the Civil Servants Act.

(4) With the exception of data supply to other organisations as required by law, the Chairman, the persons having or used to have a civil servants' relationship with the Authority or other legal relationship or assignment aiming at working shall treat state, service and business secrets disclosed to them in connection with the types and performance of the activities of the Authority and all other data, facts and circumstances - which the Authority is obliged by law to make accessible for the public - as confidential .

(5) A data, facts and circumstances disclosed to the persons identified in paragraph (4) in connection with the performance of surveillance activities shall not be made available to the public and shall not be used by such persons without specific authorisation.

(6) A assignment of the Chairman shall terminate

- a) upon the expiry of his mandate,
- b) upon his resignation from the position,
- c) upon his death,
- d) when the Prime Minister removes him based on a recommendation of the Minister, or
- e) for any other reason laid down in legislation.

(7) A Chairman may be removed if

- a) he acts in a way that is unworthy of this position,
- b) he becomes incapable of holding this position, or
- c) he has failed to declare the existence or eliminate a cause of conflict of interest within the meaning of the Civil Servants Act and Article 72 (5) of this Act.

(8) The Chairman shall be considered to be unworthy of his position if, as a result of criminal proceedings against him, a final court ruling states that a crime has been committed, or if he has deliberately breached the law in connection with his position.

(9) The Chairman shall be considered incapable of holding this position if he continuously cannot perform his duties for a period of more than ninety days, or fails to perform his duties in a technically or professionally competent way. In respect of judging incompetence the opinion of NHIT shall be invited.

Chapter XI

Joint rules of procedure applicable to the authority and the Arbitration Committee

Basic principles of procedures

Article 75

(1) In the course of its activities the Authority shall guarantee the application of the following basic principles:

- a) non-discrimination,
- b) objectivity,
- c) transparency,
- d) proportionality,
- e) publicity, and
- f) proceeding in a sound and justified manner.

(2) Upon request by the Authority all organisations shall supply information in connection with communications-related issues within fifteen days.

Public hearing

Article 76

- (1) The Authority may hold a public hearing to ensure the elaboration of communications legislation where such elaboration requires involvement of the market players and knowledge of views, and the coordination of opinions may promote implementation of the legislation.
- (2) The authority or the Arbitration Committee may hold a public hearing to develop the practice of application of communications legislation and hear opinions on such issues.
- (3) Any entity may report to the Authority to have a general interest in the holding of a public hearing, identifying in such request the aspect of communications that is associated with its professional activity.
- (4) When the Authority or any of its organisation units schedules a public hearing it shall notify all persons (organisations) identified in paragraph (3) - which have a direct interest in the given issue - of the public hearing at least fifteen days before the scheduled date and shall provide the with the preparatory documents.
- (5) The entities concerned may submit data, expert opinions and other evidence to support their position.
- (6) The Authority shall prepare a summary of the opinions submitted to or presented at public a hearing and shall publish it in the Communications Bulletin within thirty days of the hearing.

Cooperation with the Economic Competition Office

Article 77

- (1) The Authority and the Economic Competition Office (hereinafter referred to as 'competition authority') shall cooperate on matters affecting competition on the communications market.
- (2) In the course of their cooperation the Authority and the competition authority shall ensure that their procedure complies with the applicable legislation on the protection of data and privacy and that the requirements relating to the protection of business secrets are met.

(3) When needed the competition authority may contact the Authority and request information about communications and invite their opinion about issues requiring knowledge of communications regulations, or technical or financial skills.

(4) In the course of a its proceedings the competition authority may contact the Authority and request, if necessary, technical, financial and commercial information on service providers and invite their opinion about issues requiring knowledge of communications regulations, or their technical or financial skills.

(5) The Authority shall express its opinion within fifteen days of such request. The competition authority may make a decision if the Authority fails to give such opinion within the specified period.

(6) The competition authority shall notify the Authority of the investigations instituted on the communications market and send to the Authority a copy of the resolution to institute an investigation according to Articles 11, 21 and 23 of the Competition Act.

(7) A opinion of the competition authority shall be invited by the Arbitration Committee in respect of the identification of a service provider as a service provider with significant market power, and before making a decision in respect of reference interconnection offers prepared by service providers with significant market power.

(8) The competition authority shall express its opinion within thirty days of such request. The Arbitration Committee may adopt a resolution even if the competition authority has failed to express its opinion within the specified time. If the Arbitration Committee has ignored the opinion of the competition authority in its decision it shall notify the competition authority of the underlying reasons. In that case the competition authority may exercise its rights under Article 85 of the Competition Act against such resolution.

Cooperation with the Consumer Protection Authority

Article 78

(1) The Authority and the Consumer Protection Authority shall cooperate with one another.

(2) In the course of their cooperation the Authority and the Consumer Protection Authority shall ensure that their procedure complies with the applicable legislation on the protection of data and privacy and that the requirements for protection of business secrets are complied with.

(3) Prior to approval the Authority shall forward the general contract conditions (Code of Practice) of a communications service provider to the Consumer Protection Authority for commenting on provisions relating to consumer protection.

(4) The Consumer Protection Authority shall express its opinion within twenty days of the request - taking into account the deadline applicable to the authority for the registration of services. The authority may adopt a resolution even if the Consumer Protection Authority has failed to express its opinion within the specified time. If the authority did not consider in its

decision the opinion of the Consumer Protection Authority it shall notify the Consumer Protection Authority of the underlying reasons.

(5) The Authority shall deliver to the Consumer Protection Authority its resolutions on the prohibition of the introduction to the market and the marketing of communications equipment.

Chapter XIII

Official procedures of the authorities

Frequency management

Article 79

(1) To ensure undisturbed utilisation of frequencies and compliance with international obligations the authority shall carry out international frequency coordination. Where the frequency coordination fails the authority shall restrict the use of the frequency or reject the issue of a frequency assignment licence.

(2) To ensure efficient and scheduled utilisation of the frequencies the authority shall prepare frequency allocation plans and use such plans for frequency assignment.

(3) Right to use a frequency may be obtained through assignment on a first come, first served basis, through tendering or auctioning, and in respect of frequencies used for broadcasting through the procedure specified in Act I of 1996 on radio and television services. The detailed conditions of the procedure applied to the granting of the right to use a frequency through tendering or auction shall be developed and published by the Authority according to separate, detailed legislation.

(4) Frequencies to be used for non-civil purposes shall be provided by the Government, without applying the procedure identified in paragraph (3), to the organisation designated by the Government, free of charge.

(5) The Authority shall perform tasks of international radio monitoring, control, detection, checking and prevention of interference based on national and international agreements on frequency utilisation whereby the authority may monitor the technical and traffic parameters of radio transmissions and record them according to conditions specified by law.

(6) To protect the communications, to ensure undisturbed and economical utilisation of frequencies and to ensure compliance with EMC requirements the frequency management authorities identified in Article 80 (2) shall operate radio measurement and interference suppression services that shall cooperate with each other.

(7) The official procedure performed by the authority with respect to frequency management regulated in this Act may be suspended until the completion of technical tests and international coordination required for a decision to be made on the matter concerned.

Individual licences

Article 80

(1) Individual licence shall be required for certain tangible requisites for communications activities identified below, unless otherwise provided by law:

- a) utilisation of scarce resources, and
- b) construction of telecommunications facilities.

(2) Frequencies shall be assigned for civil purposes and radio licences shall be issued by the authority, and frequencies shall be assigned for non-civil purposes and radio licences shall be issued by other organisations identified by law (hereinafter together 'frequency management authorities') upon request for a definite period according to the FNFT and the frequency band utilisation rules. The term of a licence and whether technical plans shall be attached to the request for frequency assignment is specified by other legislation. The authority shall supply data for the preparation of the technical plan on request.

(3) In the case of experimental utilisation of frequencies or utilisation not exceeding thirty days the frequency management authorities may, in justified cases, authorise frequency utilisation and issue a radio licence under conditions deviating from the FNFT and the frequency band utilisation rules.

(4) The frequency management authorities may restrict or refuse to authorise the use of a frequency to ensure efficient and proper use of the radio frequency spectrum, prevent harmful interference, or protect public health as required relevant laws.

(5) The frequency management authorities shall refuse to issue a frequency assignment licence if

- a) the licence cannot be issued for technical or frequency management-related reasons;
- b) assignment of the frequency would cause harmful radio frequency interference to existing or planned frequency utilisation applications;
- c) international coordination of the frequency has failed;
- d) the requesting party does not have the network required for provision of the planned service with the given frequency or the financial security needed to acquire such network - as identified in other legislation;
- e) the frequency assignment licence was requested for the provision of a service or performance of an activity that is not included in the scope of activities of the company as shown in the company's registered data;
- f) the requested parameters exceed the frequency requirement of the given telecommunications activity or service;
- g) the requesting party is in default of payment of frequency fee to the authority.

(6) A frequency management authorities shall revoke the frequency assignment licence if

- a) the statutory conditions of assignment are not met;
- b) the request for frequency assignment included incorrect or misleading data;
- c) the licensee failed to pay the fee for frequency reservation - specified by law - within fifteen days of receipt of a reminder from the authority;
- d) the licensee requests revocal of the licence;
- e) where an amendment to the FNFT or an international commitment promulgated by law so requires.

(7) A licensee shall not receive compensation in the cases listed in paragraph (6), points a) to d).

Article 81

(1) A radio licence may be issued only on the basis of valid frequency assignment - with the exception of cases identified by other legislation - to radio stations implemented using radio equipment or radio communications network accompanied by documents in proof of conformity.

(2) If the radio licensee requests renewal of the radio licence sixty days before the end of the term of the radio licence and the conditions for the revoking of the radio licence referred to in paragraphs (5) and (6) are not met, the frequency management authorities shall renew the term of the radio licence with the period specified by law.

(3) After the end of the term of the radio licence and in the case of revocation of the radio licence the radio station may be operated again according to the provisions of this Act.

(4) The frequency management authorities may restrict the operation of the radio equipment to ensure efficient and proper use of the radio frequency spectrum, prevent harmful interference, or protect public health as required relevant laws.

(5) A radio licence shall be revoked if

- a) so required due to amendment to the FNFT;
- b) the frequency identified in the radio licence needs to be used for different purposes according to an international commitment;
- c) it is prescribed by law, a binding and enforceable court decision or an authority resolution;
- d) the request for the radio licence included incorrect or misleading data;
- e) the radio licensee failed to pay the fee applicable to frequency usage - specified by law - within fifteen days of receipt of a reminder from the authority;
- f) the broadcasting or other frequency usage licence has expired;
- g) the radio station or the radio equipment installed in the radio communications network does not have the declaration of conformity referred to in Article 8;
- h) the radio licensee requests revocation of the licence.

(6) A radio licensee shall be liable for compliance under the conditions of the radio licence. If the radio licensee fails to comply with the requirements of operation specified in the radio licence the authority may revoke the radio licence or take other market surveillance action.

(7) Stations of certain radio services may be operated only by persons having obtained an operator licence, having passed the test required by law.

(8) If the frequency management authorities do not renew the radio licence in the cases referred to in paragraphs (5) and (6) a radio licensee shall not receive compensation.

(9) The rules applicable to localisation of foreign radio licences in Hungary are laid down in other legislation.

(10) In the case of legal succession the use of the frequency may be continued subject to notification to the authority within thirty days of the legal succession. The authority may reject acceptance of the notification if any of the cases referred to in paragraphs (5) and (6) necessitating revocation exist.

Identifier management

Article 82

(1) The Authority shall authorise the obtaining at a later date the exclusive right to use sub-domains of allocated identifiers (reservation licence), use of the reserved identifiers by specific sub-domains or as individual identifiers (assignment licence).

(2) The Authority shall make such decision in consideration of the resource and time requirements for the implementation of the services, and of the provisions laid out in Article 68 (9).

(3) Upon the issuance of the reservation licence the authority shall examine whether the requesting party has the technological requisites for the provision of the proposed service and/or the financial security required to acquire them - as identified in other legislation.

(4) The Authority shall control the use of identifiers. The rules of licensing and control are laid down in other legislation.

Prevention or elimination of interference

Article 83

(1) All communications equipment and any other equipment (machine, device, wires, vehicles and other facilities) generating high-frequency signals or side-effects during operation shall be placed in the market and operated in a way as will ensure the avoidance of causing interference to the operation of other electric and electronic equipment that otherwise conform to requirements for sensitivity to interference.

(2) The operator of equipment causing interference to a communications facility shall prevent such interference or eliminate the caused interference.

(3) The Authority shall order the operator of equipment causing interference to eliminate such interference. If the operator of the equipment fails to eliminate the interference within a technically reasonable length of time despite the order to do so the authority may order, by a

resolution, interference suppression, relocation of the equipment or restricting the operation period of the equipment, or elimination of the interference in any other way.

(4) A resolution referred to in paragraph (3) may also be adopted if the equipment that causes interference conforms to regulations on interference and is lawfully used, unless the interference could be eliminated with no or little cost through relocation of the equipment to which interference is caused although being conform to requirements for sensitivity to interference or modification of its components.

Market surveillance

Article 84

(1) To ensure fulfilment of the aims of this Act - in particular those referred to in Article 2 c) - the authority shall perform a market surveillance activity.

(2) In its market surveillance activity the authority shall monitor the operation of the communications market, compliance with the applicable laws, including in particular inspection of the following:

- a) compliance with the provisions comprised in licences granted by the relevant authority;
- b) application and enforcement of the contractual conditions agreed with and approved by the authority;
- c) the operation of communications service providers, compliance with their notification and data supply obligations;
- d) the quality of the communications services and the related complaints;
- e) introduction to the market and operation of the facilities used in connection with the communications activity,
- f) exercise of the exclusive rights associated with reserved postal services.

(3) During the performance of its market surveillance activity the authority may

- a) enter the premises, headquarters, commercial premises and warehouses of natural and legal persons and of organisations without legal personality, subject to the provisions of this Act, used in connection with a communications activity,
- b) take samples and counter-samples,
- c) carry out test purchases,
- d) access business secrets,
- e) request, verbally and in writing, data and information (including business secrets) on a communications service provider from the auditor or liquidator of the communications service provider, and
- f) enter the premises or headquarters of the auditor or liquidator of a communications service provider to obtain data and information (including business secrets) on the communications service provider, inspect the documents found there, make copies and extracts of such documents.

(4) During this activity the authority may invite the contribution of other organisations authorised by other statutes of law to carry out such tasks.

Article 85

(1) To ensure compliance with laws the authority shall impose sanctions in the case of infringement of law. The authority may - according to the general rules of state administration and provisions of other legislation

- a) prohibit the continuation of the activity or conduct that infringes the law and the provision of illegal service,
- b) seal and confiscate the facilities used thereto or used illegally,
- c) establish the conditions for the performance of the activity,
- d) order execution, and
- e) impose a fine as specified by law.

(2) During its market surveillance activity the authority may impose a fine in the following cases of infringement of law:

- a) provision of communications service without a licence;
- b) deviation from the provisions of laws, licences issued by the relevant authorities, contracts, general contract conditions as identified in Article 84 (2);
- c) unlicensed utilisation of scarce resources;
- d) introduction to the market, marketing or operation of communications equipment in non-compliance with regulations;
- e) failure to comply with the notification obligation;
- f) failure to perform or deficient performance of the data supply obligation.

(3) In the case of non-compliance with more than one provision of law, multiple items of fine may be imposed.

(4) Immediate implementation of a resolution adopted to protect life, health, physical security and the environment and to avoid threat of a particularly huge damage to a large scope of consumers may be ordered as part of the market surveillance procedure.

(5) A resolution adopted in a market surveillance procedure to avoid or reduce serious harm to the interests of the consumers may be published.

(6) A resolution shall be published if immediate implementation of the resolution has been ordered, or if introduction to the market, marketing and operation of the equipment or provision of the service has been prohibited.

(7) Requested review of a resolution by a court will not hinder its publication. The fact that legal remedy against a published resolution has been requested and the resolution adopted in the legal remediation procedure shall also be published.

Chapter XIII

Procedures of the Arbitration Committee

Requirements to be met by members of the Arbitration Committee

Article 86

- (1) The members of the Arbitration Committee shall be in a relationship with the Authority as civil servants during their membership in the Committee. The number of the members of the Arbitration Committee shall be between 12 and 24. They shall be appointed and recalled by the Chairman of the Authority. The list of the members shall be published by the Authority in the Communications Bulletin on an annual basis.
- (2) The provisions of the Civil Servants Act shall apply to the civil servant relationship of the members of the Arbitration Committee with the differences laid down in paragraphs (3) - (5) and Article 74, paragraphs (1) and (3).
- (3) Any person having at least three years' professional experience and university degree – applicable to matters covered by the competence of the Arbitration Committee – and having passed the relevant special examination on public administration or law may be a member of an Arbitration Committee.
- (4) The members of the Arbitration Committee shall not pursue activities for compensation (salary), with the exception of scientific, educational, artistic, revision, editorial and copyright activities, the shall not be members under obligations of personal contribution to or senior official of enterprises and cooperatives, they shall not have own shares in enterprises performing communications activities or in enterprises having regular business relations with such enterprise.
- (5) A member of the Arbitration Committee shall be appointed for a definite term (of a minimum of two years). Upon the expiry of such definite term a member may be appointed again, more than once. If a member of the Arbitration Committee is not appointed again after the end of term of appointment the provisions of the Civil Servants Act on revocation of appointment of executives shall be applied to his/her civil servant relationship.
- (6) Pursuant to Article 38 (1) of the Civil Servants Act the members of the Arbitration Committee shall not be given orders in respect of their procedures or decisions relating to communications.

Procedures of the Arbitration Committee's plenary meeting

Article 87

- (1) The Arbitration Committee may decide with respect to issues of conceptual importance pertaining to communications at plenary meetings attended by where all members of the Committee. A plenary meeting may also be held by the Arbitration Committee to decide on matters pertaining to its own organisation. A plenary meeting shall be chaired by the Chairman of the Authority.
- (2) A plenary meeting shall have a quorum if more than half of all members are present.
- (3) A plenary meeting shall adopt the basic principles to be applied by the Arbitration Committee in connection with the identification of service providers with significant market

power by a two thirds majority votes of all members present and publish them in the Communications Bulletin.

Responsibilities and powers of the Arbitration Committee in respect of individual matters

Article 88

Upon request or - in the cases identified in points c) to h) - upon initiative by a person identified in Article 91 (4), or *ex officio*, the Arbitration Committee shall conduct proceedings

- a) to promote cooperation between service providers in cases when it is required by law, and in respect of matters requiring coordination in connection with the general cooperation obligation,
- b) where an agreement reached or the resolution adopted through a coordination procedure is not complied with, upon request of either of the parties,
- c) to approve a reference offer,
- d) in the case referred to in Article 50 (8),
- e) in order to identify a service provider with significant market power or the termination of such status,
- f) in the case of non-compliance with the conditions laid out in a reference offer,
- g) in the case of non-compliance with provisions of law on cooperation between communications service providers,
- h) in the case of legal disputes in connection with the prices of network services or according to Article 52 (1).

Rules pertaining to members of the Arbitration Committee acting in procedures

Article 89

(1) In coordination procedures one member of the Arbitration Committee shall proceed, in all other procedures three members of the Arbitration Committee designated by the Chairman of the Arbitration Committee shall proceed .

(2) From among the three members of the arbitration council the Chairman of the Arbitration Committee shall designate a member to coordinate the conducting of the procedure.

(3) The member designated according to paragraph (2) may take any measure - except making a resolution within the meaning of Article 96 (1) - for which the Arbitration Committee has power by law.

Article 90

(1) A member of the Arbitration Committee shall not be involved in a procedure if he/she holds a legal relationship identified in point a) with the organisation that has initiated the procedure or the party having a conflicting interest or any other organisation being involved in the matter (hereinafter referred to as 'customer organisation'), or if such relationship with an organisation controlling or controlled by the customer organisation existed within one year before the start of the procedure, or if his/her relative

- a) is employed by, has other legal relationship of employment with, or is a member or a senior official of the customer organisation;
- b) owns a share of the customer organisation;
- c) is employed by, has other legal relationship of employment, or is a member or a senior official of, or owns a share in an organisation having regular business relations with the customer organisation;
- d) has a civil servant relationship with an organisation which supervises or is supervised by the customer organisation, or has granted to the customer organisation any support or exclusive licence.

(2) The meaning of the term 'control' is defined in the Competition Act.

(4) A member of the Arbitration Committee shall notify the Chairman of the Arbitration Committee of any reason for his/her incompatibility (conflict of interest) or upon the development of such reason, and shall immediately terminate his/her involvement in the ongoing procedure.

Detailed rules of the procedures of the Arbitration Committee

Article 91

(1) The provisions of Act IV of 1957 on the general rules of state administration procedures shall apply to the procedures conducted by the Arbitration Committee, unless otherwise provided in this Act.

(2) A request may be filed by a communications service provider (hereinafter 'requesting party') whose right or lawful interest is harmed or endangered by an activity or failure violating this Act or if it intends to coordinate with another communications service provider. Identification as service provider with significant market power and withdrawal of the same may also be requested by the service provider itself.

(3) A procedure of the Arbitration Committee may be initiated by the following persons if they identify, with respect to matters within their scope of power, any activity or failure that

infringes this Act or the necessity of identification as service provider with significant market power:

- a) the Chairman of the Economic Competition Office,
- b) the Director General of the Consumer Protection Authority,
- c) the Minister or the Government Commissioner for IT,
- d) the ombudsman in charge of the protection of personal data,
- e) the Chairman of the National Radio and Television Board.

(4) If during an ongoing procedure requested or initiated by a party authorised to do so within the deadline specified in paragraph (5) the Arbitration Committee learns of infringement of law in addition to the violations under investigation Arbitration Committee may, *ex officio*, also take action in connection with such additional infringement before making the decision referred to in Article 96 (1). The facts relating to the additionally identified infringement shall be communicated to the parties and the affected persons in writing or during the proceedings (hearing), and the position of the parties on such additionally identified infringement act shall be elicited.

(5) This procedure may be requested or initiated - except the procedure applied with respect to the identification of a service provider with significant market power - within sixty days of having learned of an event constituting infringement of the provisions of this Act or of an event necessitating such procedure, or where the service providers concerned have failed to reach an agreement, but not later than hundred and twenty days after the occurrence of such event or of the failure of the parties to come to an agreement.

(6) Missing a deadline specified in paragraph (5) shall result in forfeiture of the right to initiate or request a procedure. If during an ongoing procedure requested or initiated within the specified deadline by a party authorised to do so the Arbitration Committee obtains knowledge of infringement of law in addition to the infringement under investigation Arbitration Committee may, *ex officio*, take action before the decision referred to in Article 96 (1) is made even if the event additionally identified occurred more than hundred and twenty days earlier, provided that it was committed (perpetrated) by the organisation (person) under investigation.

Article 92

(1) A request shall include

- a) the requesting party's name and headquarters (place of residence);
- b) the name and headquarters (place of residence) of the persons known by the requesting party to be potentially involved in the procedure;
- c) the subject matter of the case, whether a reconciliation (coordination) procedure is requested;
- d) the date of the occurrence of the infringement or event giving rise to procedure or that of the failure of the parties to come to an agreement, or the date on which requesting party obtained knowledge of the infringement or failure of the efforts aimed at the conclusion of an agreement;

- e) whether any earlier reconciliation procedure has been conducted by the Arbitration Committee in connection with this case, a reference to such procedure, or, if the case is related to a reference offer, the specification of such reference offer;
- f) identification of the Arbitration Committee's measures asked for by the requesting party and the reasons for such request;
- g) whether the requesting party requests the holding of a hearing.

(2) All documents available to the requesting party shall be attached to the request.

(3) An administration fee specified by other legislation shall be paid by the requesting party at the start of a procedure conducted by the Arbitration Committee upon request, except where a service provider requests its identification as service provider with significant market power.

(4) Where the request does not include the data referred to in paragraph (1) or the administration fee has not been paid, the Arbitration Committee shall remind the requesting party to submit the necessary data or pay the fee - as the case may be - within five days.

(5) Where it is established by the Arbitration Committee that the failure specified in paragraph (4) has not been remedied or the request was submitted by a party not authorised to do so or it was submitted after the expiry of the relevant deadline, the request shall be rejected. Legal remedy against the resolution on rejection may be sought within the meaning of Articles 99 to 101.

(6) The document initiating a procedure to be conducted by the Arbitration Committee *ex officio* shall contain the data identified in paragraph (1) and the requested measures. A copy of the available documents relating to the matter shall be attached to the request sent to the Arbitration Committee.

(7) The Arbitration Committee shall immediately notify the parties and the persons concerned of the starting of the procedure, sending them, at the same time, the document initiating the procedure, and shall invite them to make their comments within five days and send to the Arbitration Committee any document available to them and declare whether they wish to hold a hearing.

Reconciliation procedure

Article 93

(1) In the course of a reconciliation procedure a hearing shall always be held with the involvement of the parties concerned. The first hearing shall be held within fifteen days of receipt of the required documents. One member of the Arbitration Committee shall proceed in respect of such a case.

(2) A hearing may be postponed once, by not more than fifteen days if

- a) either of the two parties of conflicting interests, or
- b) where more than two parties are involved in the case, one of them

is not present at the hearing.

(3) Where the procedure has not been initiated with respect to cooperation resulting from an obligation to conclude a contract, the second hearing shall be closed without any actual reconciliation and the procedure shall be closed if

- a) the case referred to in paragraph (2) (a) occurs repeatedly,
- b) more than half of the affected parties are not present,

(4) At the hearing the member of the Arbitration Committee shall hear the positions stated by the parties (the persons involved/concerned) and present

- a) the applicable laws,
- b) the legal consequences,
- c) the earlier practice of the Arbitration Committee or any publications of the Arbitration Committee concerning awards with respect to similar cases and the structures of agreements earlier reached in similar cases, and try to bring the parties to an agreement.

(5) In the resolution concluding the reconciliation procedure the member of the Arbitration Committee shall approve the agreement lawfully reached or - if the parties failed to reach an agreement - establish the obligation to perform or the right to require performance, and may make a decision on whether or not

- a) there was an obligation to cooperate or to conclude a contract between the parties,
- b) the rejection of the performance requested in the offer was rightful,
- c) the contract was concluded by the parties on a non-discriminatory basis, with special regard to comparison with other valid contracts the identical or similar services and contracts with the service providers referred to in Article 37 (4).

(6) A member of the Arbitration Committee shall adopt a resolution showing his/her decision within fifteen days of the last hearing, but not later than forty-five days after the starting of the procedure and send the resolution to the parties.

Procedures applicable in legal disputes and the identification of service providers with significant market power

Article 94

(1) In a case that is not a reconciliation procedure the Arbitration Committee shall hold a hearing upon request by any one of the parties concerned. The parties and other persons concerned may be present at the hearing in person or by proxy, make comments and submit evidence until the end of the hearing.

(2) Such hearings shall not be public.

Article 95

The Arbitration Committee may impose a fine between HUF 150,000 and HUF 1 million on a party involved in the procedure if such party

- a) submits wrong or false data, or fails to submit any data that is essential for judging the case;
- b) fails to provide any information or to provide it within the given deadline;
- c) hinders inspection of documents related to its communications activity.

(2) A member of the Arbitration Committee may

- a) access business secrets,
- b) request the auditor or liquidator of the communications service provider to submit data and information about the communications service provider by word of mouth or in writing (including confidential business information).

Article 96

(1) The Arbitration Committee shall adopt a award within thirty days of receipt of a request defined in Article 92 (1) or the initiation of the procedure (within forty-five days in the case of identification of service provider with significant market power), provided that no hearing is held on the case.

(2) If the Arbitration Committee has held a hearing on a case the award shall be adopted within forty-five days of receipt of the request defined in Article 92 (1) or the initiation of the procedure.

(3) This period may be extended on one occasion for a justified reason by not more than ten days, of which the parties shall be notified before the end of the initial period.

(4) An award of the Arbitration Committee shall be adopted, on behalf of the Authority, on the basis of a majority of votes, considering the obtained documents and the hearing, if a hearing has been held.

(5) An award shall be delivered to the parties and other affected persons and shall be published in the Communications Bulletin.

Special rules of certain procedures

Article 97

(1) If the draft reference interconnection offer or offer for granting use of unbundled access to the local loop (hereinafter collectively referred to as 'reference offer') is not approved by the Communications Arbitration Committee the service provider shall be notified thereof, with the detailed reasons outlined.

(2) A service provider shall submit a new draft within thirty days. If the service provider fails to fulfil such obligation by the required date the Arbitration Committee may impose a fine amounting to the lesser of one thousandth of the service provider's gross revenue in the preceding year, but not more than HUF 25 million.

(3) If the new reference offer is not in line with the relevant laws either, the Arbitration Committee shall adopt and publish a resolution on the contents of the reference offer.

(4) Furthermore, the Arbitration Committee shall also proceed according to paragraphs (1) to (3) when a service provider with significant market power, which is not under an obligation to prepare a reference offer, submits for approval pursuant to Article 42 (2) a proposal for the amount of compensation identified in the network contracts.

(5) In the case of a legal dispute about the price to be paid for network services the Arbitration Committee may

- a) prohibit the continued application of the price and at the same time order the service provider to apply a lawful price, and
- b) order the service provider to refund, to the party that suffered the loss, the extra revenue generated through breaching the provisions applicable to the price.

Legal consequences

Article 98

(1) In its resolution the Arbitration Committee

- a) shall reject a request submitted without proper justification,
- b) may establish that the law has been infringed,
- c) may remind the party that infringed the law to act in compliance with the provisions of this Act;
- d) may create the reference offer;
- e) may identify the service provider with significant market power;
- f) may impose an obligation in the case of infringement of law, in particular may require conclusion of contract,
- g) may impose a fine of an amount determined by other legislation;
- h) order the party that has infringed the law to pay the administration service fee and the costs incurred in connection with the procedure.

(2) If during the procedure the Arbitration Committee detects any circumstance that is indicative of an infringement of other laws it shall communicate such suspicion to the competent authority, in particular to the Economic Competition Office, the Consumer Protection Authority and the Authority.

(3) The Arbitration Committee may apply more than one of the measures set out in paragraph (1).

Legal remedy against a resolution adopted by the Arbitration Committee

Article 99

(1) No appeal may be filed against an award adopted by the Arbitration Committee. Any party whose rights or lawful interests are harmed by the award adopted by the Arbitration

Committee may submit a request to the Budapest Court (Fővárosi Bíróság) for a review of the case.

(2) The Arbitration Committee may publish its award on the matter even if a review of the award by the court of has been requested, however, this fact shall be pointed out in the publication.

(3) Chapter XX of Act III of 1952 on civil proceedings (hereinafter 'Civil Proceedings Act') shall be applied, with the differences laid down in Articles 99 to 101 of this Act, to court procedures initiated upon a request of a review of a decision adopted in a legal remedy procedure.

Article 100

(1) A request of an action shall be filed with the Arbitration Committee within fifteen days of receipt of the award. A request of an action shall include a statement on whether the requesting party requests the holding of a hearing.

(2) The filing of a request of an action shall not postpone the implementation of the award.

(3) The Arbitration Committee shall refer such request of action to the court within five days together with the documents pertaining to the case and its declaration made pursuant to Article 331 of the Civil Proceedings Act. The Arbitration Committee shall communicate in its declaration whether it requests the holding of a hearing.

Article 101

(1) Any person who would also be prevented from proceeding with respect to such a case by the circumstances laid out in Article 90 shall be excluded from proceeding in the resolution of such a case and shall not participate in such a procedure as a judge either.

(2) A court shall deliver the request of action within eight days and at the same time

- a) serve written notice of the declaration of the Arbitration Committee to the plaintiff;
- b) along with specifying a deadline, the court shall invite the affected parties involved in the legal remedy procedure in respect of whom the award adopted by the Arbitration Committee contained provisions, to state their positions, and shall inform them of the possibilities of intervention.

(3) Where the parties have not requested holding a hearing the court shall judge the case without a hearing.

(4) A court procedure shall be conducted immediately.

(5) A court may overrule the award adopted by the Arbitration Committee and take the measures identified in Article 98 (1), points b) to h).

(6) The Authority shall publish the resolution of the court in the Communications Bulletin.

(7) An appeal against the resolution adopted by the court of the first instance in the proceedings instituted upon request of a review of a decision adopted with respect to a case relating to communications may be filed within eight days of the disclosure of the decision.

(8) No appeal for a review may be filed against a decision adopted by the court of the second instance within the meaning of Chapter XIV of the Civil Proceedings Act.

PART SIX

CLOSING PROVISIONS

Miscellaneous provisions

Article 102

(1) The fees and fines imposed on the basis of the provisions of this Act or by statutes issued pursuant to the authorisation granted in this Act shall qualify as public debts to be collected under the rules applicable to tax collection.

(2) A service provider providing communications services to closed user groups shall have no rights and shall not be under obligations - in respect of such services - pursuant to the provisions laid out in Articles 9, 12, 14, 16, 18, 25, 28, 30 to 35, 38 to 42, 44 and 45. The procedural rules of the Arbitration Committee shall not be applied to the services provided for such users.

Entry into force

Article 103

(1) This Act shall enter into force on 23 December 2001 with the exception of Article 18 (1), Article 27, Article 41, Article 108 (2) to (4), and the provisions and Articles referred to in Article 106.

(2) Article 18 (1) shall enter into force on 1 January 2003.

(3) Article 27, Article 108 (3) and (4) and Annex 2 shall enter into force on 1 January 2002.

(4) In respect of the service providers having exclusive licence pursuant to a concession contract for the provision of telephone services in the areas identified in Annex 1, Article 41 (1) and (3) to (6) shall apply only from the date identified in Annex 1 - following the expiry of the exclusive concession licence for the provision of local public telephone services in effect on the effective date hereof . In respect of other service providers it shall apply from 23 December 2001.

(5) Article 108 (2), Article 41 (2) and (7) and Article 107 (2) (g) shall enter into force on 1 July 2001. The reference offer identified in Article 41 (2) shall be submitted to the Arbitration Committee for approval by a service provider for the first time by the 80th day preceding the date applicable to such service provider according to paragraph (4).

(6) Article 4, paragraphs (1), (2) and (4) shall lose effect on 1 January 2004.

(7) Article 41 (2) (j), Article 41 (3), Article 42 (4) and (5), in Article 3 (2) the words “transmission and”, and in Article 1 (1) (k) of Act XVI of 1991 on Concession the words “transmission and” shall lose effect on the day when the Act on promulgation of the international agreement on accession of the Republic of Hungary to the European Union enters into force.

(8) Upon the entry into force hereof the following regulations shall be abrogated:

- a) Articles 1 to 4, Article 5 (8), Article 5/A (2) (b), Articles 6 to 27 and the Annex of Act LXII of 1993 on frequency management,
- b) Act LXXIV of 1998 amending Act LXII of 1993 on frequency management,
- c) Act XLV of 1992 on postal services,
- d) Act XLIX of 1996 amending Act XLV of 1992 on postal services,
- e) Act LXXII of 1992 on telecommunications, and Article 108 (2) hereof,
- f) Act LXVI of 1999 amending Act LXXII of 1992 on telecommunications,
- g) Act LXV of 1997 amending Act LXXII of 1992 on telecommunications,
- h) Law Decree No. 18 of 1985 on publication of the International Telecommunications Convention,
- i) Article 158 of Act I of 1996 on radio and television services,
- j) Article 82 of Act XC of 1998 on the Year 1999 budget of the Republic of Hungary,
- k) Article 73 of Act XXXIII of 1998 amending taxation laws, the Accounting Act and other laws,
- l) Article 49 of Act LXXV of 1999 on the rules of action against organised crime and certain phenomena relating to organised crime and the amendments to related laws,
- m) Article 88 of Act CXXV of 1995 on the national security services,
- n) Article 19 of Act LXXII of 1995 on the amended Year 1995 budget of the Republic of Hungary,
- o) Article 71 of Act CXI of 1993 on the Year 1994 budget of the Republic of Hungary,
- p) Article 33 (2) of Act LX of 1995 amending Act III of 1952 on the civil proceedings,
- q) Article 108 of Act XXXIV of 1994 on the police,
- r) Article 1 (1) (j) of Act XVI of 1991 on concessions.

Transitional provisions

Article 104

(1) Services defined as local public telephone services at the time of the promulgation of this Act may be provided on the basis of a report to be submitted to the authority, in the areas specified in Annex 1 only from the day specified for such areas in Annex 1, following the expiry of the concession-based exclusive authorisations concerning the provision of local public telephone services in effect at the time of the promulgation hereof.

(2) Mobile radio communications service may be provided in the frequency band reserved for the DCS 1800 and GSM 900 public mobile radio telephone services - and not yet assigned to a concession company on the basis of a valid concession contract - from 1 January 2003 upon reporting to the authority, if the additional requisites and conditions required by this Act and other laws issued pursuant to the authorisation given in this Act are available and met, as appropriate.

(3) Pager service may be provided upon reporting to the authority, through the ERMES 11 channel on the 169.675 MHz carrier frequency and through the ERMES 13 channel on the 169.725 carrier frequency following the expiry of the relevant concession contract - but from not later than 30 April 2009 -, if the additional requisites and conditions required by this Act and other laws issued pursuant to the authorisation given in this Act are available and met, as appropriate.

(4) The reports to the authority as referred to in Article 3 (1) on with the services specified in paragraphs (1) to (3) shall be submitted by the service providers holding exclusive licences, not later than 30 days before the expiry of their exclusive service provision rights. The fact of the submission of such reports shall not affect the parties' rights and obligations laid down in the concession contracts. All other communications service providers which shall have been granted, before the entry into force of this Act, a right to provide communications services pursuant to licence or notification may pursue such activity in accordance with the provisions of such rights.

(5) The restriction on scope of activities laid down in Article 22 of Act XVI of 1991 on concession shall not apply from the date specified in Article 103 (1) to the concession companies that have concluded a concession contract for telecommunications activities.

(6) The licences referred to in Article 11 (1) granted before the entry into force of this Act in respect of concession contracts shall remain in force during the their respective contractual periods.

Article 105

(1) The entry into force of this Act shall not affect interconnection agreements in effect, but any party holding a right or under obligation concerning interconnection may make an offer to enforce Article 39 and Article 42 (1), and after the approval of the reference interconnection offer of the service provider identified in Article 40 (1) any party may make an offer to enforce the rules applicable to such cases.

(2) From the date of the entry into force of this Act the Hungarian Post Office Plc. shall operate as the designated universal postal service provider. The universal postal service provider may fulfil its obligations associated with the provision of universal service through an enterprise established for this purpose with in majority ownership or under its majority control.

(3) The national concession company and the local concession companies shall be qualify pursuant to this Act as service providers with significant market power in the market of telephone services from the date of entry into force of this Act - in respect of the obligation specified in Article 41 (2) from 1 July 2001 - until the first identification of service providers with significant market power in the market of telephone services.

(4) Until 1 January 2003 the service providers may apply the method of fully allocated costs to calculate the prices to be paid pursuant to network contracts and other cooperation and to make the proposal referred to in Article 52 (3) for the cost of the discount service provided by the universal service provider.

(5) When in legislation promulgated before the date of entry into force of this Act a reference is made to the Communications Authority (Chief Inspectorate of Communications /Hírközlési Főfelügyelet/) it shall mean the Communications Authority as defined in Article 70 (1).

(6) The provisions of Article 108 (5) shall be applied to requests filed after the entry into force of this Act.

(7) Reporting of interfaces not registered but operating in networks operational on the date of entry into force of this Act shall be submitted by the entities ordering the construction or by owners of the telecommunications network by 23 September 2001, as specified in other legislation.

Article 106

(1) Articles 70 to 74 shall enter into force on 1 July 2001 and the timing of the application of their provisions shall be determined by the requirements of the schedule specified for appointment of the Chairman of the Authority and the setting up of the Arbitration Committee.

(2) Article 25 shall enter into force on 1 October 2001. After its constituent meeting the Arbitration Committee shall immediately start the elaboration of the basic principles referred to in Article 87 (3) that shall be developed on a temporary basis because the service providers will still not have the accounting records kept as required in Article 28.

(3) The Arbitration Committee shall identify service providers with significant market power for each market identified in Article 25 (2) for the first time through a simultaneous analysis of all service providers qualifying as potential candidates in view of their financial strength, and make a decision at a plenary meeting.

(4) A service provider identified in Article 28 (1) to (4) shall supply the data referred to in Article 28 (5) for the first time by 30 June 2002.

(5) Article 50 shall enter into force on 1 July 2001. The provision of universal service shall be started in respect of the services provided by the national concession company pursuant to exclusive licence on 23 December 2001, in respect of the services provided by the other concession companies pursuant to exclusive licence on the day following the day identified in Annex 1 as the day when the term of exclusive concession licence expires. To amend the concession contracts to ensure the provision of universal service the Minister may - in justified cases - reduce or cancel the concession fee payment obligation, and may initiate termination of the concession contract with mutual agreement - at the same time concluding a universal service contract.

(6) Following the promulgation of this Act telephone service providers shall start preparations for the application of Article 18 (1) along with the coordination of the implementation of technical developments of public interest required for the performance of the obligation required by this Act.

(7) The payments to the Fund and those to be effected by the Fund as specified in Article 53 (5) shall be effected first in respect of 2002 - by 28 February 2003 and by 31 March 2003,

respectively. The basis for such payments shall be established by the Minister with regard to the accounting data available on 2002.

(8) By 31 December 2002 the Government shall examine the application and the efficiency of the provisions of law for pricing.

Authorising provisions

Article 107

(1) A Government shall be authorised to provide, in a decree on frequency management, for the following:

- a) the detailed rules applicable to the organisation of the authority responsible for non-civil frequency management and to the regime of non-civil frequency management;
- b) the National Table of Frequency Allocations;
- c) the rules of the auction and tender to be organised in order to select prospective users of frequencies, the conditions referred to in Article 80 (5) d);

(2) A Government shall be authorised to provide in a decree on communications for the following in general:

- a) the responsibilities, powers and competence of the Authority and the detailed rules of its procedures;
- b) the rules of the preparation of communications for emergency and classified periods, the responsibilities of state administration organisations, the methods of ensuring their conditions of operation;
- c) the rules of the management of identifiers, the conditions referred to in Article 82 (3), the conditions of and requisites for the introducing and applying number portability and carrier selection;
- d) the detailed conditions of the postal service contract, with special regard to the size and weight limits of postal consignments, delivery of postal consignments, the legal consequences of non-contractual performance, and the rules applicable to entities participating in postal services;
- e) the rules of cooperation between the organisations performing communications tasks and the organisations authorised to collect confidential information;
- f) the requirements concerning the quality of communications services in respect of the protection of consumers;
- g) the detailed rules of subscriber contracts and network contracts and their conclusion;

- h) the obligation of a communications service provider, its employees, members and agents in connection with the protection of data and privacy, the detailed rules of data management, the special conditions applicable to the protection of privacy, the handling of traffic and billing data, the conditions of identifier presentation and call forwarding;
- i) the detailed conditions of the provision of communications services, the human resource and technical requisites for the provision of the service, the cases where appropriate financial security is required the amount of such security, and the detailed rules of procedure applicable in the licensing of services within the scope of universal postal services including the smallest geographical and administrative unit identified for the exercising of the right of service provision;
- j) the detailed rules on the provision of telegram service;
- k) the detailed rules of operation, supervision and utilisation of the Universal Telecommunications Services Fund and the Universal Postal Services Fund;
- l) the rules - deviating from this Act - applicable to government and military purpose networks, and the organisations for non-civil frequency management;
- m) the amount of fines that may be imposed by the authority and the Arbitration Committee, and the conditions of imposing such fines.

(3) The Minister shall be authorised to issue decrees providing - in respect of civil-purpose frequency management - for the following:

- a) the cases when frequency may be used without individual licence;
- b) the rules of official procedures applied by the authorities in granting individual licences, with special regard to the detailed conditions of the frequency assignment and radio licensing procedure, the rules of issuing and modifying, revoking and extending licences and the detailed rules of rejecting applications submitted for licences;
- c) the cases where radio equipment, radio stations, radio networks and radio communications systems may be installed without frequency assignment licence;
- d) the validity of a frequency assignment licence or a radio licence, and the renewed term of validity of such licences in the case of renewal;
- e) the cases where technical plans shall be submitted for the frequency assignment licence;
- f) the cases where a frequency assignment licence needs not comply with the FNFT and the frequency band utilisation rules;
- g) the cases where the frequency assignment licence and the radio licence may be

transferred and the right may be assigned to third parties;

- h) the cases when other licences issued by the relevant authorities are required for issuing the frequency assignment licence;
- i) the fees to be paid for frequency reservation and usage, the detailed rules of payment (in agreement with the Minister of Finance);
- j) the rules of general authorisation for the operation of radio equipment;
- k) the conditions of issuing radio licences without frequency assignment licence;
- l) the conditions of the localisation of foreign radio licences in Hungary;
- m) the rules of using frequency bands;
- n) the essential requirements to be met by radio equipment and telecommunications terminal equipment, the detailed rules on the certification and recognition of their conformity, their introduction to the market and the putting into operation of such equipment, and the detailed rules of authorising the conformity testing, inspecting and certifying authorities;
- o) the requirements concerning the examinations to be passed by operations of stations for the various radio services, the regime of such examinations and the requisites for the issuance of operator licences;
- p) the qualification requirements for the authorisation concerning the designing of technical plans required in certain cases for frequency assignment;
- q) the rules of inspection and of the activities of the measurement and interference suppression service .

(4) The Minister shall be authorised to provide, in a decree in connection with communications in general, for the following:

- a) the technical conditions applicable to communications networks;
- b) the market surveillance, quality supervision and control activity of the authority;
- c) the fees to be paid for the procedures conducted by the Authority, the method and conditions of payment, and the market surveillance fee in agreement with the Minister of Finance;
- d) the detailed technical requirements of the universal telecommunications service;
- e) the fees to be paid for the reservation and usage of the identifiers, the detailed rules of payment (in agreement with the Minister of Finance);

- f) the amount of contribution to be paid to the Universal Telecommunications Services Fund and the Universal Postal Services Fund and the support that may be granted, the method of determining such support, the method to be applied in determine the payment, compensation and sharing of the costs of universal communications services;
- g) the detailed rules for the pricing of the network services;
- h) the ANFT and the standardised procedural rules of its application, the preconditions for the identifier reservation licence, the rules of using the identifiers;
- i) the conditions of the obligation of leased line service provision by the service provider with significant market power on the leased line services market;
- j) the tariff packages of universal services;
- k) the mandatory national application of the standards on access to, protection and crossing of telecommunications structures by other type constructions;
- l) the range of data supplied by the market players required for the performance of the duties of the Authority, the conditions of the fulfilling of data supply obligations of the market players, the rules of data management and record keeping by the Authority;
- m) the designation of the communications service providers to be involved in the performance of defence-related tasks and the specification of their preparatory tasks.
- n) the content requirements of the technical specifications of interfaces and the requirement for accessing such;
- o) the detailed rules of keeping separate accounting records according to Article 28.

(5) The Minister of Economic Affairs shall be authorised to provide, in a decree issued jointly with the Minister, for the procedure of certification of conformity of high-frequency electronic equipment and equipment emitting high-frequency signals or side effects, the conditions of the manufacturer's declaration of conformity, the essential requirements of conformity, and the conditions of mutual recognition of declarations of conformity issued abroad.

(6) The Minister of Defence shall be authorised to provide, in a decree issued jointly with the Minister, for the rules and conditions of cooperation between authorities in charge of frequency management, the rules of mutual data exchange between them and the related scope of data.

(7) A Minister of Defence shall be authorised to provide, in a decree, for

- a) the method of applying the conformity certification and the essential requirements laid down in Article 8 and the laws based on the same Article in respect of the

radio communications equipment using non-civil purpose frequencies, and the case of deviation from such method;

- b) the rules of frequency assignment, radio licensing, checking (inspection), measurement and interference suppression activities, data supply and testing (examination) of operators in the area of non-civil purpose frequency management.

Amended laws

Article 108

(1) The following point f) shall be added to Article 172 of Act IV of 1959 on the Civil Code of the Republic of Hungary:

“[Unless otherwise provided by law the following shall be in exclusive ownership of the State:]

- f) the identifiers required for the operation of communications networks, provision of communications services and interoperation of communications networks and services, and their domains.”

(2) Act LXXII of 1992 on telecommunications shall be amended as follows

a) Article 20 (4) shall be replaced with the following provision:

“(4) In the case of restricted availability of natural resources acquiring by the service provider of the right to service provision through public auction, drawing by lots or tendering may be a precondition for the issuance of service licence .”

b) Point 9 in the Annex shall be amended as follows:

“9. Public telecommunications service

shall be a service subject to concession available for a charge at the service access points of the public telephone network. It shall include the possibility of originating, forwarding and receiving local, national long-distance and international calls, making calls to the public mobile radio telephone networks, emergency calls, using operator-assisted services, directory assistance service, telephone directory and public payphones.”

c) Point 7 in the Annex shall be amended as follows:

“Public mobile radio telephone service

A public subscriber service provided on the mobile radio telephone network that is used in the form of calls between subscribers of the given network or calls to other networks interconnected with the given network.”

(3) A following new paragraph (3) shall be added to Article 17 of the Pricing Act.

“(3) In respect of communications services the activities identified in Article 16 shall be performed by the Chief Communications Inspectorate instead of the price regulator, and its procedure shall be subject to the rules of the Act on Communications.”

(4) The Annex to the Pricing Act shall be amended in accordance with Annex 2 hereto.

(5) Article 52 (6) of Act LXXVIII of 1997 on the development and protection of the man-made environment shall be replaced with the following provision:

“(6) In respect of specific types of buildings - except for antennas, antenna support structures and other related structures - as well as buildings and areas subject to preservation of monuments, the right of the construction authorities shall be exercised by the state administration organisations identified by other relevant legislation. In respect of these types of buildings the construction authority referred to in paragraphs (2) and (3) shall be involved in official licensing procedures as functional authority.”

(6) Paragraphs (3) and (8) of Act LXII of 1993 on frequency management shall be replaced with the following provisions:

“(3) A Council shall comment on

- a) the definition of the general principles of frequency utilisation and the FNFT;
- b) the modification of sharing the radio frequency range between civil and non-civil purposes, disputes between the ministers responsible for these two areas concerning frequency management;
- c) bids submitted for the position of Chairman of the Communications Authority, the report on the annual activity of the Authority;
- d) upon request by the Government or any member of the Government any submission or individual decision relating to communications and IT;
- e) strategic submissions relating to the regulation of the infrastructure of the information society and the information society development programme.”

“(8) The financial requirements of the operation of the Council shall be provided from the central state budget.”

(7) Article 3 (6) of Act IV of 1957 on the state administration procedure (hereinafter 'Act on State Administration Procedures') shall be replaced by the following paragraph:

“(6) This Act shall be applied to issues in the following sectors or to issues governed by the following Acts, unless otherwise provided by law:

- a) national defence,
- b) foreign trade administration,
- c) social security, family support,
- d) taxation, excise (revenue taxation) and customs,
- e) industry law protection,
- f) administration of asylum seekers and refugees,
- g) certain activities associated with the application of nuclear energy,
- h) Act on the ban of unfair market behaviour and restriction of competition,
- i) Act on pricing,
- j) Act on insurance companies and insurance activity,
- k) Act on credit institutions and financial enterprises,
- l) Act on trading in securities, investment services and stock exchange,
- m) Act on voluntary mutual insurance funds,
- n) Act on private pensions and private pension funds,
- o) Act on real estate registers,
- p) Act on electronic signatures,
- q) Act on communications.”

(8) Some definitions contained in Article 1 (40) of Act C of 1995 on customs rights, customs procedure and customs administration shall be modified as follows:

“40.a) *Postal traffic*: shall mean a postal service activity performed by a domestic postal service provider or with the involvement of a foreign postal service provider in international relations.

40.b) *Express delivery*: shall mean an integrated postal service not included in universal services, whereby the service provider delivers items with guaranteed delivery time, undertakes based on sender’s order to carry out the tasks of the packaging, tracing, customs clearance of the consignment, in the case of a change of the addressee to deliver the consignment to the new address while ensuring that the consignment is under the service provider’s control throughout the process along with ensuring that all pieces of information related to the consignment and the certification of delivery can be retrieved any time.

40.c) *Courier service*: shall mean local or national postal service with guaranteed delivery time whereby the item is carried in a single technological process, that cannot be broken down to sub-processes - from taking over the consignment personally from the sender, to delivery.”

(9) Article 1 (1) (k) of Act XVI of 1991 on concession shall be replaced with the following provision:

“k) national and regional radio and television program transmission and broadcasting with the exception of specialised program provision,”.

(10) Article 3 (2) (b) of Act XLVI of 1993 on statistics shall be replaced with the following provision:

/Organisations of the official statistics service: /

“b) A ministries and the Prime Minister’s Office;”

Article 109

(1) This Act contains regulations - on matters contemplated in the European Convention signed on 16 December 1991 in Brussels establishing a partnership between the Republic of Hungary and the European Communities and their member states, in harmony with Article 3 of Act I of 1994 that promulgated the Convention - compatible with the following laws of the European Communities:

- a) Commission Directive 88/301/EEC of 16 May 1988 on competition in the markets of telecommunications terminal equipment;
- b) Council Directive 90/387/EEC of 28 June 1990 on the establishment of the internal market for telecommunications services through the implementation of open network provision;
- c) Commission Directive 90/388/EEC of 28 June 1990 on competition in the markets for telecommunications services;
- d) Council Directive 92/44/EEC of 5 June 1992 on the application of open network provision to leased lines;

- e) Commission Directive 94/46/EC of 13 October 1994 amending Directive 88/301/EEC and Directive 90/388/EEC in particular with regard to satellite communications;
- f) Commission Directive 95/51/EC of 18 October 1995 amending Directive 90/388/EEC with regard to the abolition of the restrictions on the use of cable television networks for the provision of already liberalised telecommunications services;
- g) Commission Directive 96/2/EC of 16 January 1996 amending Directive 90/388/EEC with regard to mobile and personal communications;
- h) Commission Directive 96/19/EC of 13 March 1996 amending Directive 90/388/EEC with regard to the implementation of full competition in telecommunications markets;
- i) Directive 97/13/EC of the European Parliament and of the Council of 10 April 1997 on a common framework for general authorisations and individual licences in the field of telecommunications services;
- j) Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through the application of the principles of Open Network Provision (ONP);
- k) Directive 97/51/EC of the European Parliament and of the Council of 6 October 1997 amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications;
- l) Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector;
- m) Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service;
- n) Directive 98/10/EC of the European Parliament and of the Council of 26 February 1998 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment;
- o) Directive 98/61/EC of the European Parliament and of the Council of 24 September 1998 amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection;
- p) Commission Decision 98/80/EC amending Annex II to Council Directive 92/44/EEC;
- q) Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity;
- r) Commission Directive 1999/64/EC of 23 June 1999 amending Directive 90/388/EEC in order to ensure that telecommunications networks and cable TV networks owned by a single operator are separate legal entities.

(2) This Act contains regulations, on matters contemplated in the European Convention signed on 16 December 1991 in Brussels establishing a partnership between the Republic of Hungary and the European Communities and their member states, in harmony with Article 3 of Act I of 1994 that promulgated the Convention, partly compatible with the following laws of the European Communities: Regulation (EC) No 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop.

Article 110

For the purposes of this Act the following communications terms shall be interpreted as follows.

1. Registered service

an extra postal service whereby the service provider acknowledges acceptance of a consignment in writing and registers the delivery.

2. Basic monitoring sub-system:

a system that enables prompt, comprehensive, ongoing, simultaneous selection and supply to an access point, of data on communications along with other relevant data of a group of subscribers (users) (that generate not more than twice the average traffic of all subscribers) selected on a random basis from among the subscribers or users of the organisation performing telecommunications tasks, comprised of at least 0.3 to 0.6% - or if the total number of subscribers exceeds 150,000, then not more than 0.3% - of all subscribers (users).

3. Identifier

a string of characters consisting of letters and/or numbers and/or symbols required for the operation of the communications network, the provision of communications services and the interoperation of communications networks and services, used to convey the information or signal to the destination which, unambiguously identifying the addressee.

4. Influencing participation:

- a) a direct or indirect ownership in a venture which aggregately grants an influence over more than twenty-five percent of the property or voting rights. Pursuant to Article 685 (b) of the Civil Code the direct and indirect ownership shares of close relatives must be aggregated;
- b) a situation in which substantial influence is granted in a venture through appointment (recalling) of members of decision-making or supervisory bodies or in any other way on the basis of a contract, deed of foundation (Articles of Association) or preferential share.

5. Leased line:

telecommunications facilities providing for transparent transmission capacity between network termination points and which do not include on-demand switching functions.

6. Addressee:

the natural person or legal entity or enterprise without legal personality or other organisation identified on the postal consignment, its packaging or the attached list as “addressee” to whom the item has to be delivered.

7. Addressed advertisement consignments

a consignment addressed to a number of addressees categorised by the Authority as large number of addressees, containing exclusively advertisement, marketing or publicity materials, of identical contents with the exception of the name, address and identifier of the addressee and other data which do not change the nature of the message.

8. Document exchange service

a postal service whereby the service provider ensures mutual exchange of postal consignments between users - without the involvement of third parties - through making available rooms and other facilities.

9. Universal service:

a set of telecommunications or postal services of specific quality standards, available for all users for affordable prices, irrespective of the users' geographical location.

10. Subscriber:

a natural person or legal entity or enterprise without legal personality in a contractual relationship with a service provider offering telecommunications services to the public, for the use of such service.

11. Subscriber access

a physical or logical connection of a telecommunications terminal equipment to a telecommunications network or any part of it to make network functions and services provided on the network accessible to the subscriber.

12. Local loop:

the twisted copper pair used in the local access network connecting an access network termination point with the local exchange, its remote stage unit or an equivalent device.

13. Granting full unbundled access to the local loop:

granting access to the local loop for another service provider for exclusive use, for a consideration. The service provider under obligation to grant such access shall no longer be entitled to provide subscriber service on the local loop.

14. Granting shared access to the local loop:

granting shared access to the local loop for another service provider, for a consideration. The service provider under obligation to grant such access may subsequently provide service on the local loop pursuant to the existing subscriber contracts, while the other service provider may provide additional subscriber service using the available transmission capacity of the same local loop.

15. Value insurance service:

an extra postal service whereby the service provider states, in appropriate documents, the handling of the consignment during the performance of the service, in terms of the financial value of the contents of the registered consignment, entered by the sender on the item as declaration of value, the particulars of the addressee and the individual identifier of the item.

16. Sender:

the natural person or legal entity or enterprise without legal personality or other organisation which has sent the item. The person identified on the item or its packaging as “sender” must be considered as sender.

17. User:

means the natural person or legal entity or enterprise without legal personality or other organisation which orders or uses the communications services. In respect of postal services the addressee shall also be considered as user.

18. Introduction to the market:

making communications equipment available for the first time, for a valuable consideration or free of charge, including, in particular, the sale and purchase, handing over/transfer under other conditions or, for the purposes of use by the entity concerned, the commissioning or direct import of the equipment in question.

19. Geographical number:

the part of the identifier defined in ANFT which refers to the geographical location, used by the service providers involved in the carrying of the call, for the directing of the call to the physical location of the subscriber network access point determined by the telephone number.

20. Frequency management:

the entirety of state activities aimed at ensuring regulated national and international utilisation of the radio frequency range in order to efficiently use the frequency range, to provide frequencies to radio communications, radio astronomy and other non radio communications applications operated by radio services.

21. Courier service:

a local or national guaranteed delivery time postal service in which provision of service is carried out in a single technology process - that cannot be broken down to sub-activities - from the personal takeover of the item to delivery.

22. Express delivery:

an integrated postal service not included in universal services whereby the service provider agrees to deliver items with guaranteed delivery time - within Hungary by 12.00 a.m. of the day following the day of mailing –, and upon order of the sender to perform tasks relating to the packaging, tracing, customs clearance of the item, in the case of a change of the addressee delivery of the item to the new address so that during such activity the item remains constantly under its supervision and all information related to the item and the certification of delivery can be retrieved any time.

23. Network equipment

the equipment required for the operation or interoperation of telecommunications networks, other than radio equipment and telecommunications terminal equipment.

24. Network access

physical or logical connection of a telecommunications network to another telecommunications network or parts of such to make network functions and services provided on the network accessible for provision of service to users.

25. Service provider with telecommunications network

a telecommunications service provider that declared, when reporting to the authority its intent to provide telecommunications services, that it owns or uses network for the provision of such services, and that it provides services on the network specified in the report or that it provides leased line services, or that users and service providers can access its services through the selection procedure as specified in the ANFT and that its report has been registered by the authority.

26. Local concession company:

an enterprise providing local public telephone service pursuant to a concession contract at the date of promulgation of this Act.

27. Communications:

transmission and reception of mail, data, signal, video signal, audio signal and any information through proper use of a communications infrastructure.

28. Communications market:

the market of services and the facilities required for the establishment and use of the services.

29. Communications service:

a telecommunications or postal activity performed for another person, for a consideration, which includes transmission of mail, data, signal, video signal, audio signal and any information, using communications infrastructure.

30. Communications equipment:

all pieces of postal and telecommunications equipment.

31. Communications network:

the postal network and the telecommunications network.

32. Official document:

the postal consignment sent by state administration or jurisdiction organisations the mailing or delivery of which results in legal consequences pursuant to law or which can be used as a basis for calculating a deadline. Official documents may be mailed with acknowledgement of receipt standardised for this purpose.

33. Service with guaranteed delivery time:

a postal service whereby the postal service provider guarantees to the sender of the item to deliver the postal consignment either within a specified period or exactly at the specified time.

34. Interface:

- a) *Network interface:* an interconnection surface of the telecommunications network - including its physical and logical features - used for accessing another telecommunications network or interconnection with another network;
- b) *Subscriber interface:* a physical service access interconnection surface - including its physical and logical features - used by a user in accessing the telecommunications network.

35. Access to Internet service via telephone network:

a service whereby the user can get linked to the Internet with his/her terminal equipment connected to a termination point of the telephone network to use data communication service provided by an Internet service provider.

36. Scarce resource:

the frequency range required for the operation of the radio communications facilities along with the identifiers and their domains required for the operation of the communications networks and the provision of the communications services.

37. Registered consignment:

a consignment the takeover of which is acknowledged and registered by the postal service provider in writing.

38. Extra postal service:

a service relating to universal postal services, pertaining to the handling of a consignment, of enhanced quality or value, provided by the service provider for a fee upon request by the sender.

39. Mail consignment:

a postal consignment containing individual or personal communication, data or information recorded on any physical medium or presented in written form.

40. Mobile radio communications service:

a service whereby any subscriber of the service freely moving across a large area can communicate with another network termination point - that can be accessed through a selection method identified in the ANFT - by making a call from a mobile equipment connected to a radio communications network termination point.

41. Mobil radio telephone network:

the terrestrial radio communications network which enables setting up and maintaining two-way telephone voice connections between receivers moving in a large area, without time limitation, which may include establishment of data communication and other connections. Access to the users is possible through a selection procedure used in the network, identified in ANFT.

42. Mobile radio telephone service:

a mobile radio communications service which is used primarily for voice telephony.

43. Multiplex activity:

a telecommunications activity whereby a single standardised stream of digital signals is compiled from radio and television program signals and other data signals for transmission to the broadcaster.

44. Program distribution:

the simultaneous unchanged transmission of signals, produced by a program provider, through a cable network or non-broadcasting radio communications system from the program provider's premises or the termination point of the program transmission network with the involvement of a separate organisation, to the receiver device of an authorised user, with the exception of transmission via a network to which less ten receiver devices can be connected. Any authorised activity via a system of wires within a single site is not considered as program distribution.

45. Program transmission

the simultaneous unchanged transmission of signals produced by a program provider, through a wired (cable) network or land or satellite non-broadcasting radio communications system to radio and television broadcasting transmitters and program distribution networks.

46. Broadcasting:

a one-way radio communications procedure for the transmission of audio and video signals and other signals via terrestrial or satellite system to a theoretically unlimited number of users having appropriate receiver device.

47. Program delivery:

the simultaneous unchanged transmission of program signals, produced by the program provider, by electronic means (through broadcasting or program distribution) to the receiver device of the user.

48. Program receiver device:

a radio communications receiver device which is used for reception of radio and television programs.

49. High-frequency signal:

a radio frequency signal used for other than radio communications purposes.

50. High-frequency side effect:

a high-frequency signal which is generated by various equipment (devices, facilities, vehicles, etc.) as a side effect of spark discharge, gas discharge or semiconductor based control.

51. High-frequency electric equipment:

the non-telecommunications equipment used for industrial, scientific, medical, household or similar purposes for generation and utilisation of electromagnetic energy in a small space.

52. National concession company:

an enterprise which performs national public telephone activity pursuant to a concession contract at the date of promulgation of this Act.

53. National broadcasting:

broadcasting in a reception area where at least half of the country's population lives.

54. Interconnection:

physical or logical interconnection of telecommunications networks used by the same or different telecommunications service providers in order to ensure exchange of information of the users of one service provider with users of the same service provider or another service provider and to enable them access to the services provided by other service providers.

55. Postage stamp:

a sticker, considered to a postal value item, with a width and height of not less than 15 mm and not more than 50 mm, showing the sign "Magyarország" or "Magyar Posta" or any translation of it, used by the universal postal service provider for franking in the postal service, clearly showing the value of franking.

56. Parcel:

a postal consignment of any content - other than personal communication or content excluded from transportation - with packaging as required by its contents.

57. Postal equipment:

the machines, technical facilities and letter collection boxes used for payment of the charge of the postal service, sale of valuables and production of certification stamping.

58. *Postal value item:*

the forms provided upon payment of a charge for use of postal services.

59. *Postal network:*

the entirety of various resources and organisations and their technical and traffic relations established for the purpose of providing postal services.

60. *Postal consignment:*

a consignment containing - in its final physical form - information, communication or objects - with an address specified on the mail or its packaging or the attached list - to be delivered by the service provider. Postal money orders and items including books, catalogues, newspapers, journals and articles with or without commercial value shall also be included in this category.

61. *Collection of postal consignments:*

the operation of collecting the postal consignments which have been mailed and taken over at the postal network access points.

62. *Delivery of postal consignments:*

the final operation of the postal service whereby the postal consignment leaves the postal network at the point identified in the address attached to the consignment (or at a different point pursuant to law). Delivery of the item includes personal handover to the authorised addressee or placing in the mail box installed at the destination address.

63. Postal service:

the activity including the acceptance for delivery, processing, forwarding and delivery of postal consignments, on a regular basis, for a consideration. Express delivery, courier service and exchange of documents shall also be considered postal services.

64. Postal service provision point:

the room and postal equipment where access to postal services is offered for the customers at a specific geographical point and time.

65. Postal money order:

a type of postal consignment whereby cash can be paid out after transfer of information on reception of cash payment and other necessary data.

66. Radio station:

one or more transmitter and receiver devices with their accessories used for implementation of a radio communications or radio astronomy service at a given place.

67. Radio service:

radio communications services and radio astronomy service as specified by law in accordance with the International Radio Regulations.

68. Radio equipment:

a product or a component part of a product which is suitable for the performance of telecommunications activity through transmission and/or reception of radio waves using the radio frequency spectrum allocated to land or satellite communications.

69. Radio communications network:

the land telecommunications network used for transmission of information fully or mostly through transmission and reception of radio frequency signals.

70. Emergency call:

an emergency call to the police, ambulance or fire department with short telephone number.

71. Number portability:

a service whereby a customer may, if so requests keep his geographical number assigned to him in the public telephone network for the given location, irrespective of the service provider.

72. Carrier selection:

the opportunity of a subscriber of a telecommunications service provider to select a service provider to be involved for access to the called subscriber or service.

Forms:

Carrier pre-selection: the subscriber selects the involved service provider in the contract and no carrier selection prefix is used for calling.

Call-by-call carrier selection: the subscriber can select for each call the service provider to be involved in the given call - other than the pre-selected service provider - by dialling a carrier selection prefix.

73. Telephone service:

a service whereby real-time, direct transmission and switching of voice calls is made so that any customer to the service can communicate with another network termination point - that can be accessed with a selection method identified in the ANFT - by making a call from a telecommunications equipment connected to a fixed network termination point.

74. Telegram:

a text message dispatched by a user through the telecommunications network or the postal service provider which is delivered to the addressee by personal delivery or via a telecommunications terminal equipment.

75. Telecommunications equipment:

network equipment, radio equipment and telecommunications terminal equipment together.

76. Telecommunications service:

network or subscriber service provided for a consideration which consists, partly or in whole, of the transmission and routing of signals on a telecommunications network.

77. Telecommunications network:

transmission systems and - where appropriate - switching equipment used in the network for call routing and other resources which permit the transmission of signals between defined network termination points by wire, by microwave, by optical means or by electromagnetic means.

78. Telecommunications activity:

an activity whereby any sign, signal, text, video or audio signal or any other type communication produced in a form that can be interpreted is delivered through various telecommunications networks to one or more users.

79. Telecommunications fixed network type structures and other structures, together: telecommunications structures:

the specific structures used for telecommunications including wires, structures associated with wires and wireless communications (used for the purposes of covering, supporting, protection, signalling, etc.), in particular; accessories, supporting structures, antenna supporting structures (towers), antennas, poles, tunnels, cable cabinets, channels, underground and overhead signs and protecting structures.

80. Telecommunications terminal equipment:

a product or a component thereof which is intended to be connected directly or indirectly to the telecommunications networks via the subscriber network access point for interoperation with the telecommunications network.

81. Installation:

construction of radio station, radio communications system or radio communications network and bringing the same into a condition suitable for operation for transmission and/or reception of radio frequency signals, without operation or test operation.

82. Acknowledgement of receipt:

an extra postal service available along with registered items whereby the service provider has the delivery of the consignment acknowledged by the authorised receiving entity using a document designed for this purpose and returns such document to the sender.

83. Item containing communication for the blind:

a postal consignment containing writing with raised dots, engravings, voice records, special paper or magnetic discs and other information carrier media for use by the blind, the sender or addressee of which is a blind person or a recognised institution of the blind.

84. Closed user group:

a group the members of which maintain permanent professional or business relations with each other or perform joint business activity and have a communication need between each other resulting from common interests based on such relation.

Annex I to Act of 2001 on Communications

Primary area	Date following the date when the exclusive concession licence, valid at the date of promulgation of this Act, for provision of local public telephone service expires
Baja	2 November 2002
Békéscsaba	2 November 2002
Debrecen	25 May 2002
Dunaújváros	2 November 2002
Esztergom	2 November 2002
Gödöllő	2 November 2002
Jászberény	12 May 2002
Kiskőrös	2 November 2002
Kiskunhalas	2 November 2002
Monor	2 November 2002
Nyíregyháza	25 May 2002
Orosháza	2 November 2002
Pápa	2 November 2002
Salgótarján	2 November 2002
Sárvár	2 November 2002
Szeged	2 November 2002
Szentendre	25 May 2002
Szentes	2 November 2002
Székesfehérvár	25 May 2002
Szigetszentmiklós	2 November 2002
Szolnok	25 May 2002
Vác	2 November 2002
Veszprém	2 November 2002

Annex 2 to Act of 2001 on Communications

In the Annex to Act LXXXVII of 1990 on pricing (hereinafter 'Pricing Act') Chapter I, Table B - Services the following provision:

Service number (SZJ)	Name	Price regulator
095111	Tariff of national delivery of postal consignments of correspondence	Minister of Transport, Communications and Water Management
095113	Tariff of national postal money order delivery	Minister of Transport, Communications and Water Management
406-22-01	Tariffs of telephone services subject to concession, fee of network interconnection (connection fee), and tariff of leased line services used for provision of telecommunications services subject to concession	Minister of Transport, Communications and Water Management
from 406 - 31	Tariffs of radio and television broadcasting	Minister of Transport, Communications and Water Management

shall be replaced with the following provisions:

Service number (SZJ)	Name	Price regulator
64.20.11.0 64.20.12.1 64.20.12.2.	Subscription tariff of the universal telephone service, tariff of the telephone service provided by a service provider with significant market power in the market identified in Article 25 (2) (a) of Act of 2001.	Minister heading the Prime Minister's Office
64.20.21.0 64. 20.22.0	Tariff of the broadcasting service	Minister heading the Prime Minister's Office
64.20.16.0	Tariff of access to Internet service via telephone network	Minister heading the Prime Minister's Office
64.20.16.0	In respect of Internet service provided via telecommunications network the share of the telecommunications service tariff paid by the telecommunications service provider to the Internet service provider	Minister heading the Prime Minister's Office
from 64.11.12.0 from 64.11.14.0 from 64.11.15.0	Tariff of national postal reserved services identified in Article 49 (1) of Act XL of 2001 on communications	Minister heading the Prime Minister's Office