

TELECOMMUNICATIONS LAW

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Act of July 21, 2000

CHAPTER I. GENERAL PROVISIONS ➔

Article 1

(1) The present Act lays down the principles for:

the performance and monitoring of activities consisting in the provision of telecommunications services or telecommunications service providers' services, as well as for the operation of telecommunications networks, hereinafter referred to as "telecommunications activities",

the use and monitoring of the use of radio equipment,

the operation of regulatory authorities in telecommunications,

the management of numbering resources,

the management of radio frequency spectrum and orbital resources,

(2) The provisions of the present Act also lay down:

the requirements for telecommunications equipment,

the requirements to be met by the equipment or objects with regard to electromagnetic compatibility,

the principles for marketing equipment or objects covered by the requirements of the present Act.

(3) The purpose of the present Act is to create the conditions for:

assuring universal access to telecommunications services throughout entire territory of the Republic of Poland,

the protection of the interests of the users of telecommunications,

furthering fair and effective competition in the provision of telecommunications services,

the development of a modern telecommunications infrastructure, integrating telecommunications, information and audio-video services assuring access to pan-European and global networks and telecommunications services,

assuring order in numbering, radio frequency spectrum management and orbital resources,

protecting state interests relative to national defence, state security and public law and order.

Article 2

For the purposes of the present Act the following expressions shall mean:

'subscriber' shall mean any natural or legal person who or which is party to a written contract on the provision of telecommunications services concluded with an operator or organisation providing telecommunications services,

'apparatus' shall mean all electrical and electronic appliances together with equipment and installations containing electrical and/or electronic components,

'leased-lines service' shall mean a telecommunications service consisting in the provision of the capability to transmit signals between the selected points of telecommunications networks, excluding any switching requested by the user or supervised by the user, preserving the same form of input and output signals,

'operation of telecommunications' networks shall mean the actual and direct control of all the functionalities of the equipment and networks assuring telecommunications,

'telecommunications infrastructure' shall mean telecommunications equipment other than terminal equipment, lines, underground conduits, poles, towers, masts, cables, wires and accessories used to assure telecommunications,

'network interoperability' shall mean the ability of the networks to efficiently interwork to provide users with mutual access to services provided in these networks

'electromagnetic compatibility' shall mean the ability of an apparatus or system to function satisfactorily in its electromagnetic environment, without generating electromagnetic disturbances exceeding the resistance of other apparatus or systems present in that environment to such interference,

'switching' shall mean setting up connections through the selection of the destination network termination point from amongst many possible network termination points,

'international radiocommunications regulations' shall mean the regulations dealing with the tasks and principles of the operation of international radiocommunications services laid down in international agreements ratified by the Republic of Poland and published in the Journal of Laws of the Republic of Poland,

'emergency number' shall mean a short number set out in the present Act or in the National Numbering Plan for Public Telephone Networks designed to initiate connections with statutory rescue services,

'immunity to electromagnetic disturbance' shall mean the ability to operate in accordance with the purpose, without any degradation of the functionalities, in the presence of electromagnetic disturbances,

'operator' shall mean an entrepreneur, authorised in pursuance of separate provisions, to engage in the conduct of business in the territory of the Republic of Poland, pursuing activities consisting in the operation of public networks or provision of telecommunications services in public networks,

'authorised operator' shall mean an operator engaged in the conduct of telecommunications

activities under a telecommunications authorisation,

'network interconnection' shall mean the physical and functional connection of telecommunications networks, operated by the same or different operators, designed to provide telecommunications to the users of these networks or for the provision of telecommunications services both by the operators of the interconnected networks and by other parties having access to the networks,

'public telephone network' shall mean a public network using switching techniques, requiring the assignment of numbering resources, assuring inter alia:

a. telephone service;

b. facsimile transmission;

c. voice band data transmission with the use of modems, between fixed-location network termination points, hereinafter referred to as "fixed public telephone network" or between variable-location network termination points, hereinafter referred to as "mobile public telephone network",

'radiocommunications service' shall mean the emission, transmission or reception of radio waves to perform the tasks laid down for that service by the provisions of international radiocommunications regulations,

'amateur radiocommunications service' shall mean the radiocommunications service intended to set up mutual communications, for technical research purposes and individual training practised by authorised persons for their own, non-profit purposes only,

'earth satellite station' shall mean radio equipment or a combination thereof deployed on the earth's surface, intended to provide communications with equipment or systems placed on earth artificial satellites,

'public network' shall mean a telecommunications network other than a private network, intended for the provision of telecommunications services,

'telecommunications network' shall mean telecommunications equipment and lines, set up and connected in a manner enabling the transmission of signals between selected network termination points using cables, radio or optical waves, or other systems using electromagnetic energy,

'private network' shall mean a telecommunications network operated by an organisation exclusively for its own purposes or deployed on the premises of non-residential buildings located on a single land property,

'numbering zone' shall mean a geographic area to which an area code has been assigned in the National Numbering Plan for Public Telephone Networks,

'telecommunications' shall mean the emission, reception or transmission of information of any nature, in particular of signs, signals, text, images or sounds by means of wire, radio or optical waves or any other systems using electromagnetic energy,

'telecommunications service provider services' shall mean a commercial activity consisting in providing access to telecommunications services provided by an operator,

'terminal equipment' shall mean telecommunications equipment or subassemblies thereof intended to interwork with public networks, connected directly or indirectly to public network termination points,

'telecommunications equipment' shall mean electrical or electronic equipment used to assure telecommunications,

'radiocommunications equipment' shall mean telecommunications equipment using radio waves,

'international service' shall mean a telecommunications service consisting in the transmission or routing of signals to a network termination point or its point other than a network termination point located outside the territory of the Republic of Poland,

'long distance service' shall mean a telecommunications service consisting in the transmission or routing of signals to a network termination point located in a different numbering zone,

'telephone service' shall mean a telecommunications service consisting in the direct, real time transmission of speech via public networks using switching techniques, enabling the user to use terminal equipment connected to a particular network termination point to communicate with the users of other terminal equipment connected to other network termination points,

'telecommunications service' shall mean the business of providing services consisting in the transmission or routing of signals in telecommunications networks,

'user' shall mean any natural or legal person using telecommunications services or requesting the provision thereof,

'end-user' shall mean any user using telecommunications services or requesting the provision thereof to satisfy its own needs,

'electromagnetic disturbance' shall mean all electromagnetic phenomena, especially noise, undesirable signals or changes in the propagating medium itself, which may degrade the performance of apparatus or systems,

'network termination point' shall mean a point of a telecommunications network intended to assure user access to the network,

'orbital resources' shall mean positions in the geo-stationary orbit or satellite orbits, which are or may be used to deploy artificial earth satellites intended to assure telecommunications.

CHAPTER II. AUTHORIZATIONS FOR CONDUCT OF TELECOMMUNICATIONS ACTIVITIES AND USE OF RADIO EQUIPMENT



Section 1. General Provisions ➔

Article 3

(1) Except as otherwise provided for by Art. 4 and Art. 5 hereof, the operation:

of public telephone networks,

of public networks intended for the broadcasting of radio or television programming,

- shall require a telecommunications authorisation, hereinafter referred to as the "authorisation".

(2) The authorisation shall empower the holder to provide all telecommunications services in the network covered by the authorisation, where:

the present Act does not ban or restrict the provision of specified types of telecommunications services;

the operator is duly authorised to dispose of or use

a) frequencies, frequency channels or radio frequency bands, hereinafter referred to as "the frequencies",

b) orbital resources,

c) numbering bands and area, operator and telecommunications service codes, hereinafter referred to as the "numbering",

d) subscriber or network termination point identification signs, in particular the addresses, codes or passwords, hereinafter referred to as "subscriber identification signs",

required for the provision of specified telecommunications services.

the authorisation does not restrict the service area of telecommunications activities or the type of telecommunications services, which may be provided in the network covered by the authorisation.

(3) The performance of telecommunications activities not covered by an authorisation in public networks shall require the filing of a written registration with the President of the Office of Telecommunications Regulation, hereinafter referred to as the "President of the OTR" latest 28 days prior to the scheduled start-up date for such activity.

(4) Except as otherwise provided for by Art. 4 and Art. 6 herein, the use of radio equipment shall require a radio permit, hereinafter referred to as "the permit".

Article 4

(1) The provisions of Art. 3 shall not apply to telecommunications activities or the use of radio equipment by:

organisational units or divisions supervised by or subordinated to the Minister of Defence and organisations supervised by or subordinated to the minister competent for internal affairs, for their own purposes,

organisational divisions subordinated to the minister competent for internal affairs, with

regard to the networks operated by these divisions for the purposes of the chancelleries of the President, Parliament, Senate and the government administration,

foreign military units and organisational divisions of foreign government authorities, temporarily residing in the territory of the Republic of Poland, in pursuance of treaties to which the Republic of Poland is party, during the time of such stay,

organisational divisions of the State Protection Office for their own purposes;

organisational divisions subordinated to the minister competent for foreign affairs for their own purposes,

diplomatic representations, consular offices, special foreign missions and representations of international organisations enjoying privileges and immunities derived from acts, treaties and international custom, domiciled in the territory of the Republic of Poland - exclusively within the scope related to their diplomatic activities and without prejudice to the provisions of paragraph (2),

organisational divisions of the Penitentiary Service for their own purposes.

(2) Acting in communication with the minister competent for foreign affairs, the minister competent for posts and telecommunications shall lay down by ordinance the detailed procedures and conditions for the conduct of telecommunications activities and the use of radio equipment by other parties stipulated in paragraph (1), sub-paragraph 6 above, their personnel and other persons enjoying equal status, taking account of the provisions of international law and the scope of activities related to the performance of diplomatic functions.

(3) Acting in communication with the minister competent for posts and telecommunications, the Minister of Defence and the minister competent for internal affairs, may lay down by ordinance within their respective competencies the detailed principles for the conduct of telecommunications activities stipulated in paragraph (1), sub-paragraphs 1-3 and for the use of radio equipment by their subordinated and supervised organisational divisions, as well as units stipulated in paragraph (1), sub-paragraph 3, taking account of the scope of the duties performed by these divisions.

(4) The President of the Council of Ministers may lay down by ordinance the detailed principles for the conduct of telecommunications activities stipulated in paragraph (1), sub-paragraph 4, as well as for the use of radio equipment by the organisational divisions of the State Protection Office, taking account of the duties of these divisions.

Article 5

(1) No authorisation shall be required for the operation of:

public telephone networks, where the entire telecommunications infrastructure and all network termination points are located within the area of a single gmina ,

fixed public telephone networks using numbering resources provided by an authorised operator in pursuance of agreements stipulated in Art. 101,

public radio and television distribution networks installed in a single residential building, designed for the broadcasting of radio or television programming.

(2) The minister competent for posts and telecommunications may lay down by ordinance the types of telecommunications activities meeting the criteria stipulated in Art. 3, paragraph (1), which shall not require authorisations, aiming to limit the scope of telecommunications activities performed under authorisations.

(3) Authorisations for the conduct of telecommunications activities stipulated in paragraph (2) shall become void as of the date of the entry in force of the ordinance. Telecommunications activities performed under these authorisations may be continued on the principles stipulated in the present Act.

Article 6

(1) Without prejudice to the provisions of paragraph (2), no permit shall be required for the use of radio equipment intended for reception only.

(2) The provisions of paragraph (2) shall not apply to radio equipment permitting reception in radio frequency bands allocated to radiocommunications services transmitting information not intended for public reception.

(3) No permit shall be required for the use of transmitting or transmitting-receiving radio equipment:

in foreign aviation, maritime and inland waterways radiocommunications services in accordance with international radiocommunications regulations, where such equipment had been duly approved for use by the competent domestic or foreign authority,

used in amateur radiocommunications services in accordance with international radiocommunications regulations, subject to the equipment having been approved for use by a competent domestic or foreign authority, for a period not exceeding 3 months,

terminal equipment, using internationally agreed radio frequency bands or approved for use by a competent domestic or foreign authority:

a) connected to a telecommunications network termination point of an authorised operator;

b) permanently mounted on foreign vehicles, vessels, inland craft and seagoing vessels or airships temporarily staying in or transiting the territory of the Republic of Poland used to assure communications with such craft.

(4) The minister competent for posts and telecommunications may by ordinance extend the range of transmitting or transmitting-receiving radiocommunications equipment, which can be used without a permit, aiming to expand the range of such equipment.

(5) Permits relative to equipment stipulated in Art. 4 shall become void as of the date of the entry into force of the ordinance. Radiocommunications equipment covered by these permits may remain in operation on the principles set out in the present Act.

Section 2. Telecommunications Authorisations ➡

Article 7

(1) The President of the OTR shall be the competent authority for authorisations.

(2) Procedures relative to the award of authorisations stipulated in Art. 3, paragraph (1), subparagraph 2 shall be instituted in upon a written application, which shall provide:

The designation of the entrepreneur, his/her registered office and address,

the number in the National Registry of Entrepreneurs,

the description of the nature and scope of telecommunications activities for which the permit is to be issued.

(3) The minister competent for posts and telecommunications shall set out by ordinance the specimen application for authorisations and the procedures relative to its filing, as well as the types of documents required for the consideration thereof, taking account of the scope of information necessary to consider the matter.

Article 8

(1) The President of the OTR shall issue the authorisation stipulated in Art. 3, paragraph (1), subparagraph 2 to operators authorised in pursuance of separate legal provisions to engage in the conduct of business in the territory of the Republic of Poland, intending to perform telecommunications activities stipulated in Art. 3, paragraph (1), subparagraph 2 unless:

there exist circumstances provided for by the present Act justifying the refusal to award a frequency reservation,

there are well-founded circumstances susceptible of:

- a) jeopardising national defence, state security or public law and order,
- b) violating international agreements to which the Republic of Poland is party,
- c) interfering with the operation of other telecommunications equipment or telecommunications networks.

(2) The authorisation may be refused due to circumstances stipulated in paragraph (1), subparagraph 2, letter a) following consultation with the Minister of Defence or Head of the State Protection Office within their respective competencies. The opinion of the Minister of Defence or of the Head of the State Protection Office stating that there are circumstances susceptible of jeopardising national defence and security shall not require justification.

(3) Authorisations shall be granted for definite periods of time, never less than 10 years, but not exceeding 25 years, unless the applicant should intend to wind up its business before that time.

Article 9

Authorisation awards and refusals stipulated in Art. 3, paragraph (1), subparagraph 1 shall be governed by the provisions of Art. 7 and Art. 8, as applicable.

Article 10

(1) Authorisations shall specify:

the authorised operator, its registered office and address,

the type of the network covered by the authorisation,

its expiration date

(2) Authorisations may specify:

the types of telecommunications services, which may be provided in the network covered by the authorisation, in case:

a) where the applicant intends to provide a narrower range of telecommunications services than could be deduced from the purpose of the network,

b) stipulated in Art. 142, paragraph (4) and Art. 146, paragraph (2),

without prejudice to the provisions of paragraph (3) - the service area in which telecommunications activities covered by the authorisation shall be performed, where the applicant does not intend to conduct its activities in the entire national territory, or the case stipulated in Art. 142, paragraph (4),

the scope of the performance of obligations or tasks stipulated in the present Act,

the start-up date for the provision of telecommunications services,

its expiration date.

(3) Where the authorisation relates to the operation of a public network, the service area in which the telecommunications activities are to be performed shall be contiguous.

(4) An authorisation may include the description of the public network it covers, within the scope resulting from the application.

(5) An authorisation may include a frequency reservation, numbering assignment or subscriber identification signs.

(6) Except as otherwise provided for in separate provisions, authorisations shall be public.

(7) The President of the OTR shall publish a list of the authorisations awarded in the Bulletin of the Office of Telecommunications Regulation, hereinafter referred to as the "OTR Bulletin" at least once every calendar year.

Article 11

(1) Authorisation renewal applications shall not be refused when filed by an authorised operator latest 6 months prior to expiry, unless there have been circumstances justifying the refusal, revocation or limitation of the scope of the authorisation.

(2) The minister competent for posts and telecommunications may lay down by ordinance the detailed principles for the modification the conditions contained in authorisations by

waiving certain restrictions or extending the scope of the authorisations awarded, taking account of the need to accelerate the adaptation of authorisations to regulatory changes related to the liberalisation of the telecommunications market.

Article 12

(1) The President of the OTR shall withdraw the authorisation, where:

a final court order has been issued banning the operator from the conduct of business covered by the authorisation,

without prejudice to the provisions of paragraph (4), the operator no longer meets the legal requirements for the award of the authorisation,

the operator has failed to remedy a factual or legal state contravening the provisions of the law within the designated time limit.

(2) The President of the OTR may withdraw an authorisation or restrict its scope or service area where:

the operator should contravene the provisions of the present Act,

the operator should contravene the conditions of the authorisation or of other decisions issued in pursuance of the present Act,

the decision has been made to wind up the operator's business or the operator has been declared bankrupt,

the operator should evade the payment of fees provided for by the present Act.

(3) The President of the OTR may restrict the scope of activities or the service area where the operator should fail to assure uninterrupted universal service.

(4) Where the operator no longer meets the requirement stipulated in Art. 8, paragraph (1), subparagraph 2, letter a) the authorisation shall be withdrawn at the request of the Minister of Defence or of the Head of the State Protection Office acting within their respective competencies. Such request of the Minister of Defence or of the Head of the State Protection Office shall require no justification.

(5) With the exception of situations where time is of the essence or the facts occurring being irreversible, no decision to withdraw an authorisation or to restrict the object, scope or service area shall be made without a prior and unsuccessful request being made to the operator to remedy the reasons justifying the issuance of such decisions.

(6) The decision on the withdrawal of an authorisation or on the restriction of the scope or service area must meet the requirements relating to the preservation of the uninterrupted provision of telecommunications services.

(7) The President of the OTR shall advise the Chairman of the National Council for Radio and Television about its intention to enforce the provisions of paragraphs (1)-(6) above with regard operators holding authorisations to operate telecommunications networks intended for the for broadcasting of radio or television programming.

Article 13

(1) The President of the OTR may include an obligation in the authorisation awarded to a company, to report at all times to the President of the OTR, whenever a single shareholder should acquire the rights to, respectively, 10%, 30% and 50% of the votes at the General Shareholders' Meeting, within 14 days of taking knowledge thereof,

(2) The provisions of paragraph (1) shall apply to the General Shareholders' Meeting, as well as to the purchase or acquisition of equity or associated rights, as applicable.

(3) The provisions of paragraphs (1)-(2) shall remain without prejudice to the provisions of the Act of February 24, 1990 on counteracting monopolist practices and protection of consumer interests (O.J. of 1999, No 52, item 547).

Section 3. Registration of Telecommunications Activities ➔

Article 14

(1) The registration of telecommunications activities in public networks, which do not require an authorisation, hereinafter referred to as the "registration" shall include:

the designation of the entrepreneur, his/her registered office and address,

the designation of the legal form of the entrepreneur,

its number in the National Registry of Entrepreneurs,

the description of the nature and scope of the prospective telecommunications activities,

the service area for telecommunications activities,

the start-up date.

(2) The President of the OTR may contest by its decision, the conduct of telecommunications activities registered by the entrepreneur within 21 days of the receipt of such filing, where the registration should contravene the provisions of the present Act, where it should be incomplete or the facts contained therein should not correspond to the actual facts.

(3) The provisions of the Code of Administrative Proceedings ruling the issuance of certificates shall govern the confirmation of the circumstances relative to registration.

Article 15

(1) Entrepreneurs engaged in the conduct of telecommunications activities in public networks, which do not require an authorisation, shall notify the President of the OTR within 14 days of any changes in their factual or legal circumstances provided in the registration, occurring after the last filing, including the entrepreneur's discontinuation of telecommunications activities covered by the by the registration.

(2) The provisions of Art.14 shall govern the notification of changes, as applicable.

Article 16

The conduct of telecommunications activities requiring registration without due registration, not corresponding to the registration or contested by the President of the OTR as stipulated in Art. 14, paragraph (2) shall be prohibited.

Section 4. Radiocommunications Permits ➡

Article 17

- (1) The President of the OTR shall be the competent authority for permits.
- (2) Proceedings relative to permit awards shall be instituted upon a written application.
- (3) A permit may be issued in conjunction with an authorisation.
- (4) The minister competent for posts and telecommunications may lay down by ordinance the specimen application and the detailed application procedures, as well as the types of documents required to consider the matter, taking account of the specific nature of radiocommunications services, telecommunications networks and telecommunications services using such radiocommunications equipment.

Article 18

(1) Permits shall be issued to organisations meeting the requirements of the present Act and where:

there are no circumstances stipulated in Art. 8, paragraph (1), sub-paragraph 2,

the frequencies covered by the application:

- a) are available,
- b) have been allocated in the National Frequency Allocation Table to the radiocommunications service specified in the application and the Frequency Application Plan provides for their use in accordance with the application,
- c) can be protected against disturbances,
- d) are internationally agreed as to their scope and form by international radiocommunications regulations or treaties to which the Republic of Poland is party,

the applicant has submitted:

- a) a document or mark confirming compliance with the essential requirements stipulated in Art. 88, paragraph 2, subparagraph 2, where the equipment requires mandatory conformity assessment,
- b) the requisite radio operator's certificate,
- c) the requisite authorisation under which the radio equipment is to be used,

d) the frequency reservation, if such reservation was made.

(2) Permits shall be issued for periods of up to 10 years.

(3) The President of the OTR shall refuse to issue the permit where, after consultation with the Minister of Defence or the Head of the State Protection Office within their respective competencies, it has been established that there exist circumstances stipulated in Art. 8, paragraph (1), subparagraph 2, letter a). The opinion of the Minister of Defence or of the Head of the State Protection Office stating that there are circumstances susceptible of jeopardising national defence or state security interests shall require no justification.

(4) The provisions of Art. 11 shall govern the award of permits, as applicable.

(5) Permits shall be public.

Article 19

(1) Permits shall specify:

the authorised organisation, its registered office and address,

the type of the radio device and its identification marks,

the conditions for the use of the frequencies,

the conditions for the use of the equipment, in particular the type of the radiocommunications service or telecommunications network, in which the equipment may be used,

the expiration date.

(2) Permits may specify:

the rules for the use of the equipment and user obligations in emergencies,

payment terms for the fees for the right to use the frequencies.

(3) Permits may include the assignment of identification signals or calling signs.

(4) Permits shall authorise the holders to use the frequencies, identification signals or calling signs specified therein.

Article 20

(1) The conditions for the use of the frequencies shall specify, in particular:

for fixed terrestrial radiocommunications equipment or for frequency reservations for the provision of telecommunications services with the use of such equipment:

a) the frequencies or border frequencies of radio frequency bands or channels, or channel numbers,

- b) the location of radio equipment or the area over which it may be moved, as applicable,
- c) ERP and the output power, as applicable,
- d) the polarisation, transmitting antenna height or the radiation characteristics of the transmitting antenna,
- e) the type of the signal and the technical parameters of its transmission,

for satellite earth stations or for frequency reservations for the provision of telecommunications services with the use of the transmitting-receiving radio equipment on artificial earth satellites:

- a) the name of the satellite used and its position,
- b) the location of the transmitting earth station or the area over which it may be moved, as applicable,
- c) the frequencies or border frequencies for radio frequency bands or channels, or channel numbers, used to assure downlinks and uplinks,
- d) the type of the signal and the technical parameters of its transmission.

(2) The conditions for the use of the frequencies may also stipulate the start-up date for the use of the frequencies.

Article 21

(1) The withdrawal or modification of permits shall be governed, as applicable, by the provisions of Art. 12, paragraph (1), paragraph (2) and paragraphs (4)-(7).

(2). The President of the OTR may also withdraw a permit or modify the conditions for the use of the frequencies where:

it has been established that the use of the radiocommunications equipment in accordance with the permit causes disturbances in the operation of other telecommunications equipment or networks,

the frequencies covered by the permit have been given a different allocation in the National Frequency Allocation Table,

the permit holder has failed to start using the frequencies specified in the permit within 12 months of the award thereof or of the start-up date stipulated in the permit.

(3) The President of the OTR may modify the conditions for the use of the frequencies where:

the usage of the frequencies covered by the permit are under-utilised or inefficiently used,

other radio equipment or telecommunications networks interfere with the operation of the radio equipment.

(4) Permits shall expire by force of the law where the frequency corresponding frequency reservations have expired.

Section 5. Frequency Reservations ➔

Article 22

(1) A frequency reservation or the reservation orbital resources, hereinafter referred to as the "frequency reservation", shall specify the frequencies or orbital resources, which during the validity of the reservation shall remain at the disposal of the holder of such a reservation.

(2) Frequency reservations shall be awarded, modified or withdrawn:

by the President of the OTR in the authorisation or its decision, without prejudice to the provisions of paragraph (4),

by Chairman of the National Radio and Television Council acting in communication with the President of the OTR - to the extent provided for in the Radio and Television Act of December 29, 1992 (O.J.of 1993, No. 7, item 34; 1995, No. 66, item 335, No. 142, item 701; 1996, No. 106, item 496; 1997, No. 88, item 554 and No. 121, item 770; and 1999, No. 90, item 999).

(3). Frequency reservations shall be made for organisations meeting the requirements stipulated in the present Act and where there are no circumstances stipulated in Art. 8, paragraph (1), sub-paragraph 2 and Art. 18, paragraph (1), sub-paragraph 2.

(4) The reservation of the frequencies intended for the terrestrial or satellite radio-diffusion shall be made in communication with the Chairman of the National Council for Radio and Televisions with regard to:

the identification of television or radio components of the digital composite signal broadcast using the reserved frequency, hereinafter referred to as the "multiplex signal",

the arrangement of the programming stipulated in paragraph (1), hereinafter referred to as the "audio-visual components of the multiplex signal", within the multiplex signal,

the proportion of the audiovisual components within the multiplex signal,

the area in which the multiplex signal can be broadcast.

(5) Frequency reservations shall be made for specified periods of time.

(6) The provisions of Art. 8 shall govern frequency reservation refusals, as applicable.

(7) Frequency reservations shall be public.

Article 23

(1) Frequency reservations shall specify:

the authorised organisation, its registered office and address,

the reserved frequencies covered by the approved Frequency Application Plan stipulated in Art. 106, paragraph (1), sub-paragraph 1, or the positions in the orbit,

the service area in which the frequencies can be used,

the type of radiocommunications service, telecommunications network or services for which the frequencies covered by the reservation may be used,

The audio-visual components of the multiplex signal, their arrangement within the multiplex signal and their proportions within the multiplex signal in the case stipulated in Art. 22, paragraph (4),

the expiration date.

(2) Frequency reservations may include conditions for the use of the frequencies, as stipulated in Art. 20.

(3) Frequency reservations may be modified or withdrawn where authorisations, in which they were awarded have been modified, or in situations stipulated in Art. 21, paragraphs (1)-(3).

(4) Where an authorisation in which a frequency reservation was awarded is withdrawn or has expired, the reservation will expire by force of the law.

(5) No permit for the use of radio equipment using the frequencies covered by a frequency reservation shall be refused during the life of a frequency reservation on the basis of circumstances stipulated in Art. 8, paragraph (1), subparagraph 2 or of the failure to meet the requirements of Art. 18, paragraph (1), subparagraph 2, unless there have been changes in the legal or factual circumstances, which had served as the basis for the award of the reservation.

(6) The provisions of paragraph (1), sub-paragraph 4 and paragraphs (3)-(5) shall not apply to frequency units and organisational divisions stipulated in Art. 4, paragraph (1).

Article 24

(1) Where frequency resources are insufficient the organisations applying for frequency reservations:

shall be selected by tendering the frequency resources used for the conduct of telecommunications activities, may be selected by tendering in all remaining cases.

The tenders shall be announced and held by the President of the OTR.

The provisions of paragraphs (1) and (2) above shall govern the modifications of frequency reservations, as applicable.

Frequency renewals shall be made without tendering.

Article 25

(1) Tenders shall be announced promptly, never later than within 12 months of the receipt

of the first application for the reservation of the frequencies covered by the tender.

(2) Tender announcements shall specify its object, scope and the conditions for participation.

(3) The President of the OTR shall specify the detailed conditions of the tender, including participation conditions and detailed bid evaluation criteria in the tender documents.

(4) Tender documents may lay down the conditions for the conduct of telecommunications activities requiring the use of the frequency resources tendered.

(5) Tender documents shall be made available against a fee never exceeding the cost of their preparation. The Office of Telecommunications Regulation, hereinafter referred to as the „OTR" shall levy the fees.

(6) The President of the OTR shall void a tender by its decision, where there has been a blatant infringement of legal provisions or bidders' interests.

(7) The President of the OTR shall by its decision declare the tender no contest where:

no bidder has met the conditions for tender participation or achieved the minimum scoring required by the tender documentation,

no bidder has joined the tender by the deadline prescribed by the tender documentation,

the number of bidders was lower than or equal to the number of organisations authorised to apply for frequency reservations.

(8) The provisions of Art. 24, paragraph (1) shall not apply to bidders stipulated in paragraph (7), sub-paragraph 3.

(9) The minister competent for posts and telecommunications shall lay down by ordinance the tendering principles, in particular to ensure that:

tender announcements shall guarantee the proper notification of the parties concerned,

tender participation conditions shall not exclude organisations meeting the requirements for the award of frequency reservations,

bid evaluation criteria shall be objective, transparent and shall not discriminate against any bidders.

Section 6. Radio Operator's Certificates ➡

Article 26

The operation of transmitting or transmitting-receiving radio equipment used in aviation, maritime and inland radiocommunications services, as well as in the amateur radiocommunications service shall require a radio operator's certificate.

Article 27

(1) The President of the OTR shall issue a radio-operator's certificate on the basis of a positive result of the examination of the knowledge and skills of the person applying for such certificate and after the applicant had documented the necessary experience.

(2) The examinations for persons seeking to obtain radio operator's certificates shall be conducted by the OTR.

(3) Fees shall be levied for the examination and for the issuance of radio operator's certificates. Said fees shall be levied by the OTR.

(4) Acting in communication with the minister competent for transportation, the minister competent for maritime economy, the minister competent for posts and telecommunications shall lay down by ordinance:

the types and specimens of radio operator's certificates, examination requirements, as well as the scope, procedures and periods of the requisite training and practical experience, taking account of the international radiocommunications regulations and the provisions included in the documents of European telecommunications organisations,

the detailed examination procedures, as well as the fees for the examinations and for the issuance of certificates, taking account of the principle that they shall not operate as a barrier to persons interested in operating radio equipment.

Article 28

The holders of appropriate radio operator's certificates issued by the President of the OTR or by competent foreign authorities, shall have the right to operate transmitting or transmitting-receiving radio equipment in foreign aviation, maritime and inland waterways radiocommunications services in the territory of the Republic of Poland in accordance with international radiocommunications regulations.

Section 7. Fees for Award or Possession of Authorisations ➔

Article 29

(1) A one-off fee shall be charged for the award of an authorisation. Such fees shall constitute the revenue of the state budget.

(2) Acting in communication with the minister competent for public finance, the minister competent for posts and telecommunications shall lay down by ordinance the amounts and timing for the payment of authorisation fees, taking account of the principle that such fees shall never exceed the costs involved in the issuance of the authorisation.

Article 30

(1) An organisation obtaining the right to use numbering resources under a numbering assignment shall pay:

a one-off fee for the numbering assignment, where the organisation receiving the assignment was selected by tendering,

annual fees for the right to use numbering resources. Statutory interest shall be charged for any delays in the payment of said fees.

(2) An authorised operator who is not eligible for the right to use numbering resources shall pay the annual fees for the possession of the authorisation. Statutory interest will be charged on any arrears in the payment thereof.

(3) The fees stipulated in paragraphs (1) and (2) shall be levied by the OTR.

(4) Acting in communication with the minister competent for public finance, the minister competent for posts and telecommunications shall lay down by ordinance the amounts, timing and payment terms for the fees stipulated in paragraphs (1) and (2), as appropriate for the range of telecommunications activities conducted by the operators, including the nature of their use of the numbering resources and acting on the assumption that said fees should be justified by the costs of the regulation and monitoring of the relevant telecommunications activities.

Article 31

(1) An organisation, which had obtained the right to use the frequencies under an authorisation or the right to dispose thereof under a frequency reservation shall pay:

a one-off fee for the frequency reservation, where the organisation receiving the assignment was selected by tendering,

annual fees for the right to use numbering resources. Statutory interest shall be charged for any delays in the payment of said fees.

(2) The fees stipulated in paragraph (1) shall be levied by the OTR.

(3) The minister competent for posts and telecommunications shall lay down by ordinance:

acting in communication with the minister competent for public finance - the amounts, timing and payment terms for the fees stipulated in paragraph (1), sub-paragraph 1,

the amounts, timing and payment terms for the fees stipulated in paragraph (1), sub-paragraph 2,

a) acting in communication with the minister competent for public finance, Minister of Defence and the minister competent for internal affairs - for the fees to be paid by the organisational units and divisions stipulated in Art. 4, paragraph (1), sub-paragraphs 1-3, taking account of the nature of the use of the frequencies by these divisions,

b) acting in communication with the minister competent for public finance in all the remaining cases,

- taking account of the costs of the management of frequency resources.

Article 32

(1) The fees stipulated in Art. 25, paragraph (5), Art. 27, paragraph (3), and Art. 30 shall constitute the revenue of a special OTR account earmarked for:

the financing of examinations for candidates applying for radio operator's certificates,

the financing of the costs involved in tendering stipulated in Art. 24 and Art. 25, including the costs of tender documentation,

the purchases of monitoring and measuring apparatus,

the financing of research and development work relative to the management of frequency resources and electromagnetic compatibility,

bonuses for the President of the OTR, Deputy Presidents of the OTR and its employees - up to 45% of the funds held in a dedicated sub-account of the special account.

(2) The detailed procedures for the application of the funds constituting the revenue of the special account shall be laid down by the President of the OTR, subject to the provisions of Art. 112, paragraphs (5)-(7).

Article 33

The provisions ruling the administrative vindication of financial obligations shall govern the collection of fees stipulated in Art. 31 and Art. 32.

CHAPTER III. PROVISIONS OF TELECOMMUNICATIONS SERVICES ➔

Section 1. General Principles of Service Provision ➔

Article 34

(1) Telecommunications services shall be provided in accordance with telecommunications service contracts.

(2) Operators shall not make the conclusion of service contracts or the provision of services conditional upon:

the user concluding a contract for the provision of other services or purchasing equipment from a designated supplier,

the user refraining from concluding contracts for the provision of telecommunications services with other operators,

the disclosure of information or data other than stipulated in Art. 69, paragraphs (1) and (2).

(3) Without prejudice to the provisions of Art. 51, paragraph (3), the operator may make the conclusion of a contract for the provision of telecommunications services conditional upon its prior receipt of an official confirmation of user data stipulated in Art. 69, paragraph (2).

(4) The terms and conditions of service contracts shall not operate to prevent or impede the exercise of the subscribers' right to change their telecommunications operators.

(5) Without prejudice to the provisions of Art. 51, paragraph (7), where the conclusion of a telecommunications service contract was tied to a promotional discount, claims arising out of the unilateral termination of the contract by the subscriber before the end of the agreed term shall not exceed the amount of the discount allowed to the subscriber,

(6) Where telecommunications services are provided using publicly accessible terminal equipment, the conditions for the provision of telecommunications services shall be publicly posted.

(7) The minister competent for posts and telecommunications may lay down by ordinance the detailed conditions for the provision of specified telecommunications services, including quality of service indicators, using the requirements stipulated in the documents of European standardisation organisations as a benchmark and in their absence - using the requirements of other international standardisation organisations of which the Republic of Poland is a member.

Article 35

(1) Except as expressly otherwise provided for by the provisions of the present Act, operators shall fix the tariffs for telecommunications services at their discretion.

(2) The tariffs for telecommunications services shall be fixed basing on transparent and objective criteria, assuring equal treatment to all users.

(3) In the event of any changes in the tariffs for telecommunications services operators shall advise their subscribers in writing, at least one settlement cycle in advance, about the extent of changes and the date for their implementation.

(4) At the request of the President of the OTR and within the requested time limit, operators shall submit up-to-date tariff pages for their service offerings, hereinafter referred to as "the tariff pages".

Article 36

(1) Operators shall keep records of all telecommunications services provided in such detail as required to establish the dues therefor or to consider any claims.

(2) Operators shall have the obligation to deliver the bills for services provided to their users in a manner preventing direct third-party access to information contained therein.

(3) Operators shall provide itemised billings to their subscribers where provided for by the present Act or the relevant service contracts. Where claims have been recognised, such billings shall be free.

(4) Operators shall keep records stipulated in paragraph (1) for a minimum of 12 months and - where a claims have been filed - for as long as required for the settlement of the dispute.

Article 37

(1) Operators whose revenues from the provision of telecommunications services in the past calendar year exceeded the equivalent of EURO 2 million shall submit their annual reports to the President of the OTR latest by the 30th of June, on their telecommunications activities in the past calendar year, including - in particular - their annual financial statements, information about their cost accounting systems, about the nature and scope of their telecommunications activities, as well as about the sales of telecommunications services.

(2) Operators whose revenues from the provision of telecommunications services in the past calendar year were equal to or less than the equivalent of EURO 2 million shall submit their written information on the types and scope of their telecommunications activities to the President of the OTR latest by the 31st of March.

(3) The amounts in EURO stipulated in paragraphs (1) and (2) above shall be converted into PLN at the mean rate published by the National Bank of Poland for the EURO on 1st January of the calendar year to which such reports or information relate.

Article 38

The provision of telecommunications services and the providers of telecommunications services shall be governed by the provisions of Art. 34 - 37, as applicable.

Article 39

(1) Operators shall observe the provisions of the Vienna Convention on diplomatic relations signed on June 18, 1961 in Vienna (O.J. of 1965, No 37, items 232 and 233) on diplomatic relations, as well as other international treaties to which the Republic of Poland is party, relative to the provision of the means of communications to diplomatic representations, consular offices, special missions and representations of international organisations, enjoying privileges and immunities pursuant to laws, treaties and international custom, domiciled in their service areas.

(2) Acting in communication with the minister competent for foreign affairs, the minister competent for posts and telecommunications shall lay down by ordinance the specific rules of conduct in matters stipulated in paragraph (1), taking account of the provisions of international law and the scope of tasks involved in the performance of diplomatic activities.

Article 40

(1) Authorised operators shall have the obligation to perform tasks related to national defence and security, and public law and order to such extent and on such conditions as stipulated in the present Act and in separate provisions.

(2) The obligation stipulated in paragraph (1) shall apply in particular, to assuring at the operator's cost, the technical and organisational capabilities for the performance in the networks operated by the operators of tasks for prosecutors' offices, courts, as well as for the authorised organisations subordinated to the Minister of Defence, authorised organisational divisions subordinated to the minister competent for internal affairs, the minister competent for public finance and the Head of the State Protection Office, starting from the day of the start-up of the operation of such network, unless the President of the OTR should decide, at the request of the organisation concerned, on a later date.

(3) Acting in communication with the Minister of Defence, the Minister of Justice, the minister competent for internal affairs, the minister competent for public finance and after consultation with the Head of the State Protection Office, the minister competent for posts and telecommunications shall lay down by ordinance:

the circumstances where an organisation will be eligible for the deferment stipulated in paragraph (2), the conditions to be met for the deferment to be granted and the maximum periods of such deferment, taking account of the nature and scope of telecommunications activities pursued by the organisation,

the detailed requirements and methods for the performance of the tasks stipulated in paragraphs (1) and (2), with the exception of matters regulated in Art. 242 of the Code of Criminal Proceedings, guided by the principle calling for the achievement of the desired targets at the lowest cost.

Article 41

(1) Neither the owners, nor perpetual usufructuaries of land property shall prevent or impede the use of authorised operators' telecommunications services by persons having legal title to the use of such property or a part thereof.

(2) The provisions of paragraph (1) shall apply accordingly where the property in question should be under usufruct, lease or permanent administration.

Article 42

(1) The users shall have the right to connect terminal equipment meeting the essential requirements stipulated in Art. 88, paragraph (2), subparagraph 2 to user-available network termination points in accordance with the applicable legal provisions.

(2) It shall be prohibited to engage in activities impeding or preventing the provision of or the use of telecommunications services, in particular to:

connect telecommunications equipment not complying with the essential requirements stipulated in Art. 88, paragraph (2), sub-paragraph 2 to public networks or equipment not intended for connection to public networks, even where the essential requirements stipulated in Art. 88, paragraph (2), sub-paragraph 2 are met,

connect telecommunications equipment to public networks at points other than network termination points, except when such connection is made by network operators in connection with network operation, or in pursuance of Art. 62 or Art. 77, paragraph (3),

interfere with the operation of telecommunications networks.

Article 43

(1) Public telephone network subscribers shall have the right to request the change of their assigned numbers where they can demonstrate that the use of their numbers causes undue hardship.

(2) Public telephone network subscribers shall have the right to request the retainment of their numbers at least within the numbering zone of the same operator when changing their residence, registered office or place of business.

(3) Telephone network subscribers shall have the right to choose their international telephone operators and in the case of fixed networks - also their long-distance operators. The operators shall have no claims against subscribers arising out of the change of an authorised operator providing long-distance or international telephone services.

(4) The minister competent for posts and telecommunications shall lay down by ordinance the detailed conditions for the exercise of subscriber rights stipulated in paragraphs (1)-(3), taking account of the availability of telecommunications services, the technical capabilities of public telephone networks and the availability of numbering resources.

Article 44

(1) Operators providing telephone service shall have the obligation to provide the technical capabilities enabling the subscribers to exercise their rights stipulated in Art. 43 and - where practicable - shall enable their subscribers to exercise such rights.

(2) At the request of a network operator, the President of the OTR may issue a decision suspending or limiting selected rights under Art. 43 for a specified period of time, where the technical capabilities of the applicant's network prevent the exercise of such rights in whole or in part and lay down the time schedule for the adaptation of the network in question to the exercise of rights covered by the request.

Article 45

(1) Public telephone network operators shall provide the users of their networks with toll-free access to emergency numbers.

(2) Operators shall ensure the routing of calls initiated using emergency numbers to the units of emergency services, which had been assigned that number, located in the relevant geographical areas.

Article 46

(1) Contracts for the provision of telecommunications services consisting in making public networks available to users for the purposes of the commercial gathering, production, processing, storage, use or the provision of information, hereinafter referred to as "network access services", shall be governed by the provisions of Art. 79, Art. 81, paragraph (4) and Art. 83-85, as applicable.

(2) Contracts for the provision of network access services shall lay down, in particular, the technical conditions for the connection of subscribers' terminal equipment and the principles of operator-user settlements.

(3) Operators shall provide the users requesting the conclusion of contracts stipulated in paragraph (1) with the data required for the conclusion of contracts for the provision of telecommunications services and offer telecommunications services on terms, which shall not be worse for the other parties than those used by the operators within their own companies or in their relations with their subsidiaries and affiliates, within the definition of the Act of 21st August 1997 - Law on Public Trading in Securities (O.J. No 118, item 754 and No 141, item 945, of 1998 No 107, item 669 and No 113, item 715, as well as of 2000, No 22, item 270).

Article 47

The provisions on the provision of telecommunications services shall not apply to activities performed in private networks.

Article 48

A confirmation that a telegram has been sent, issued by a postal office of the state-owned public utility company "Poczta Polska" shall have the force of an official document.

Section 2. Provision of Universal Service ➔

Article 49

(1) Telephone services other than network access services, facsimile services and data transmission services in the voice band performed with the use of modems, provided by authorised operators in fixed public telecommunications networks, including additional facilities consisting in:

the free provision of information about subscribers' numbers, hereinafter referred to as "directory service",

facilities for the disabled,

the provision of itemised billing for telecommunications services provided at the subscriber's request,

hereinafter referred to as "universal service", shall be available to all users, in the requisite quality and at an affordable price in the whole national territory.

(2) The minister competent for posts and telecommunications shall lay down by ordinance the detailed requirements applicable to universal service, in particular to the quality of service and its availability, the number of publicly accessible telephones where calls are paid for automatically, in particular with coins, tokens, prepaid telephone cards, credit or debit cards, hereinafter referred to as "public payphones", including payphones adapted to the needs of disabled persons.

Article 50

(1) Operators providing universal service shall lay down the scope, as well as the terms and conditions for the provision thereof in their rules and regulations, published and delivered free of charge to subscribers along with service contracts, as well as at their request.

(2) The rules and regulations of universal service provision shall specify, in particular:

the types of telecommunications services provided and additional facilities,

the terms and conditions for the provision of telecommunications services, including the technical requirements for network termination points,

the terms and conditions for entering into service contracts and for the termination thereof,

the maximum time limits for the beginning of the provision of telecommunications services covered by service contracts,

claim settlement procedures.

(3) Operators shall provide universal services in accordance with the rules and regulations stipulated in paragraph (1).

Article 51

(1) Operators providing universal service shall not refuse to enter into contracts on the provision thereof, where the user requesting the provision of universal service has met the requirements derived from the rules and regulations for the provision of telecommunications services.

(2) Universal service contracts shall be concluded within 30 days from the date of the application for their conclusion and specify, in particular, the time limit for the beginning of the provision of universal services.

(3) The provisions of Art. 34, paragraph (3) shall not apply to the provision of universal services.

(4) Where through the operators fault:

the time limit for the conclusion of a universal service contract has been exceeded, or

where the time limit for the beginning of the provision of universal service to a user having no access to universal service under another universal service contract concluded with that user has been exceeded,

the user shall be entitled to receive compensation from the operator amounting to 1/30th of the monthly line rental stipulated in the contract, charged by the operator for the provision of periodically payable universal services.

(5) Claims procedures arising out of the failure to meet the time limits stipulated in paragraph (4) shall be governed by the provisions of Art. 74 and Art. 75, as applicable.

(6) The assignment of obligations under a universal service contract to another operator providing universal service, with the exception of operator changes in pursuance of Art. 54, shall require the approval of the subscriber.

(7) Operators shall have no claims for damages against subscribers unilaterally terminating universal service contracts before the end of the contractual term.

Article 52

(1) Operators providing universal service shall have the obligation to assure access to disabled persons to their universal service by deploying public payphones adapted to the needs of disabled persons and by offering to such persons terminal equipment adapted for use by such persons, where the use of such equipment is necessary to assure their access to universal service.

(2) Acting in communication with the minister competent for medical care and the minister competent for social welfare, the minister competent for posts and telecommunications may lay down by ordinance the details of the extent of the implementation of the requirement specified in paragraph (1), taking account of the varied needs of persons suffering from different forms of disability.

Article 53

(1) Operators providing universal service may interrupt or significantly restrict the provision of universal service, or modify the conditions thereof, where there are justified circumstances preventing compliance with the essential requirements relative to:

the preservation of the uninterrupted provision of telecommunications services in the event of a breakdown of the telecommunications network or in emergencies

the preservation of network integrity,

network interoperability,

the protection of telecommunications secrecy or data protection in their networks,

the efficient use of the frequency spectrum and compliance with electromagnetic compatibility requirements.

(2) In situations stipulated in paragraph (1) the subscribers of the operator's network may file relevant complaints with the President of the OTR, who will consider such complaints within one week of the date of their filing.

(3) An operator providing universal service may:

restrict the provision of telecommunications services, starting with services other than universal services, while maintaining the provision of services which do not increase subscriber indebtedness, whereof incoming calls and toll-free calls, where the subscriber has remained in arrears with payment for the provision of telecommunications services for a period of more than 45 days,

restrict or interrupt the provision of telecommunications services where the subscriber should notoriously infringe the rules and regulations of service provision or of the telecommunications service contract, or should engage in activities impeding or preventing the provision or use of telecommunications services.

(4) An operator providing universal service may unilaterally terminate the service contract with a subscriber to whom the provision of telecommunications services has been restricted or interrupted, after having unsuccessfully requested the subscriber to:

pay the monies due within a period not shorter than 15 days in the case of arrears in payment for telecommunications services,

remedy the causes of the interruption or restriction of service provision in cases stipulated in paragraph (3), sub-paragraph 2.

Article 54

(1) Operators shall not terminate the provision of universal service until the service is taken over by other operators.

(2) An operator providing universal service, intending to terminate the provision thereof, shall promptly notify in writing the subscribers of its network, hereinafter referred to as the "terminating network's subscribers" and the President of the OTR to the effect and about the measures taken to assure the uninterrupted provision of universal service. The operator shall have the right to designate an authorised operator who will take over the provision of universal service.

(3) The President of the OTR shall issue an authorisation or expand the scope of the existing authorisation to provide universal service to the subscribers of the terminating

network to the public operator designated by the operator intending to discontinue the provision of universal service, where the designated public operator had filed the appropriate application and meets the requirements stipulated in the present Act.

(4) Where the take-over of the provision of universal service to the terminating network's subscribers in pursuance of the provisions of paragraph (3) is impracticable, the President of the OTR shall award an authorisation for the provision of universal service or expand the scope of the existing authorisation of an authorised operator or operators filing the appropriate applications and meeting the requirements stipulated in the present Act, after consultation with the applying operators.

(5) Where the take-over of the provision of universal service to the terminating network's subscribers in pursuance of the provisions of paragraph (3) or paragraph (4) is impracticable, the President of the OTR shall issue a decision mandating the provision of universal service to the terminating network's subscribers by the operator with the highest market share in these services in the service area covered by the decision.

Article 55

Operators providing universal service shall provide their users with up-to-date directories of their networks for the numbering zone in which the network users' termination points are located at least every other year at a cost-based price.

Article 56

(1) Public telephone network operators shall supply other public telephone network operators, at their request and without discrimination, with the data necessary to provide directory services in the service areas of the applicants. Such data shall be supplied in pursuance of contracts governed by Art. 83-85, as applicable.

(2) The operator of the fixed public network with the highest market share in the provision of universal service in the territory of the Republic of Poland shall provide directory services to all the users of public telephone networks, including the users of public payphones, covering all the subscribers of these networks.

(3) The President of the OTR shall designate by its decision the operator stipulated in paragraph (2) above and lay down the specific conditions for the provision of directory service.

(4) Directory service and the drawing up of subscriber directories, as well as the provision of data in connection therewith shall be governed by the provisions of Art. 69 and Art 70.

Section 3. Organisations with Dominant and Significant Market Power



Article 57

(1) To the extent stipulated in paragraph 4 and acting in communication with the Chairman of the Office for the Protection of Competition and Consumers, the President of the OTR shall by its decision rule that an authorised operator in the area designated by its decision:

has a dominant position within the definition of the Act on Counteracting Monopolistic Practices and Protection of Consumer Interests in the market of particular services in the

designated area,

without prejudice to the provisions of paragraph (3) - is a significant market power operator with regard to the provision of a particular service, where this operator's share in the provision of that service in that area is equal to or higher than 25%.

(2) To the extent stipulated in paragraph (4) and acting in communication with the Chairman of the Office for the Protection of Competition and Consumers, the President of the OTR may by its decision rule that an authorised operator whose market share in the provision of a particular service in a particular area is lower than 25% is a significant market power operator with respect to that service, taking account of its:

ability to influence the functioning of the market,

revenues relative to the size of market,

access to end-users,

experience in the provision of telecommunications services in the market.

(3) Acting in communication with the Chairman of the Office for the Protection of Competition and Consumers, the President of the OTR may by its decision rule that an authorised operator meeting the criteria stipulated in paragraph (1), sub-paragraph 2 is not a significant market power operator with regard to the provision of a particular telecommunications service in view of all the factors stipulated in paragraph (2).

(4) The President of the OTR shall issue the decisions stipulated in paragraphs (1)-(3) with regard to the provision of:

universal services,

leased-lines service,

telephone services provided in mobile public telephone networks,

interconnection services provided in the domestic market.

(5) The President of the OTR shall draw up a list of significant market power operators and publish it in the OTR Bulletin at least once a year.

(6) Acting in communication with the Chairman of the Office for the Protection of Competition and Consumers, the President of the OTR will revoke the decisions stipulated in paragraphs (1)-(3), ex officio or at the operator's request, where the operator does not meet the criteria for the passing of such a decision.

(7) The decisions of the Chairman of the Office for the Protection of Competition and Consumers stipulated in paragraphs (1)-(3) and in paragraph (6) may be appealed against to the District Court of Warsaw - the Anti-Monopoly Court.

(8) The provisions dealing with significant market power operators shall also apply to dominant operators, as applicable.

(9) The minister competent for posts and telecommunications shall lay down by ordinance the detailed criteria to be applied in assessing operators' market shares in the markets of particular telecommunications services and the methodology therefor, taking account of the types of services and nature of the provision of each of the services stipulated in paragraph (4).

Article 58

(1) Operators with significant market power in the provision of universal service, shall submit to the President of the OTR their:

specimen universal service contracts or the modifications thereof,

draft rules and regulations for universal service provision or the modifications thereof at least 3 months in advance of their anticipated entry into force.

(2) The President of the OTR may by its decision, within 30 days of the submission of a specimen contract or of draft rules and regulations, or of the modifications thereof, contest their provisions, if contradictory to the law or where they should violate user rights.

(3) The parts of the rules and regulations or the modifications thereof, contested by the President of the OTR shall not come into force.

(4) Specimen contracts or the modifications thereof contested in part or in whole by the President of the OTR shall not be used.

(5) Operators with significant market power in the provision of universal service shall enter into contracts for the provision thereof on terms and conditions never worse for the other parties to the contract than specified in specimen contracts, which had not been contested by the President of the OTR.

Article 59

(1) The prices for universal services provided by significant market power operators shall take account of the costs of their provision and be independent of the method of the provision of such services, unless the user should request additional facilities.

(2) Dominant operators in the provision of universal service or in leased-line service shall keep separate accounts for:

each of the services in which they have a dominant positions,

their interconnection settlements under interconnection agreements concluded with other operators.

(3) The minister competent for public finance acting in communication with the minister competent for posts and telecommunications shall lay down by ordinance the cost accounting systems to be used by the operators stipulated in paragraph (2), as well as the time limits for their implementation, following the principle of their mutual comparability and that they should permit the allocation of the costs incurred by the operator in connection with the provision of each of the services, in which the operator has a dominant position from the costs, which cannot be directly allocated to the provision of any specific telecommunications service.

Article 60

(1) Operators with significant market power in the provision of universal services shall submit to the President of the OTR their draft tariff pages for universal services or the modifications thereto, accompanied by a justification thereof at least 30 days in advance of the anticipated entry into force of such tariff pages or modifications.

(2) The President of the OTR may by its decision, within 14 days of the submission of the tariff pages or modifications thereof, contest such tariff pages or the modifications thereof, where the tariff pages or the modifications thereof should be contrary to the provisions of the present Act.

(3) The parts of the tariff pages or the modifications thereof, contested by the President of the OTR shall not enter into force.

(4) Tariff pages and their modifications shall be published in the OTR Bulletin at the expense of the operator.

(5) The provisions of paragraphs (1) - (3) shall be without prejudice to the provisions of the Act on Counteracting Monopolistic Practices and the Protection of Consumer Interests.

Article 61

(1) Operators with significant market power in the provision of leased-lines services, shall provide such services assuring the appropriate quality of service, compliance with the requirements stipulated in Art. 53, paragraph (1) and access to all users in the area designated in the decision stipulated in Art. 57, paragraphs (1)-(3).

(2) Operators providing leased telecommunications lines shall not refuse their service on the grounds of the end-users' terminal equipment not complying with the technical requirements, where such equipment meets the essential requirements stipulated in Art. 88, paragraph (2), sub-paragraph 2.

(3) The termination of the provision of leased-lines service shall require prior consultation with the users concerned.

(4) In the event an operator stipulated in paragraph (1) should refuse to enter into a contract for the provision of this service, discontinue its provision or reduce the availability of leased-lines alleging the user's failure to comply with the usage conditions for leased lines, the user shall have the right to apply to the President of the OTR to settle the dispute. The President of the OTR shall rule on the case in an administrative hearing.

(5) Tariffs for leased-line service shall not take account of the use made of the leased lines by the users and shall relate only to:

telecommunications lines deployed between the network termination points accessible to the user,

the dues for setting up the line and the periodical lease fee.

(6) The prices for the lease of telecommunications lines provided by significant market power operators shall take account of the costs of their provision and be independent of the method used to provide the service, unless the user had requested additional facilities.

Tariff pages for leased lines shall be governed by the provisions of Art. 60, as applicable.

(7) Significant market power operators with regard to leased-lines service shall draft their reference offers for the provision of leased lines-service. Such offers shall be governed by the provisions of Art. 79 and Art. 81, paragraph (4), as applicable.

(8) The minister competent for posts and telecommunications shall lay down by ordinance a minimum set of the types of leased lines, which shall be offered under leased-lines service, along with the corresponding technical and operating requirements, as well as the minimum scope of the offer stipulated in paragraph (7), with a view to establish the conditions for the effective provision of leased-lines service.

Article 62

Operators with dominant market power in the provision of universal services or leased-lines service shall enable other operators to access their networks in all technically justified access points other than network termination points, unless there are technically and commercially viable alternatives for providing such access or the requested would involve incommensurate outlays. The provision of such access shall be governed by the provisions of Art. 78-85, as applicable.

Article 63

Organisations holding dominant market positions, within the definition of the Act on Counteracting Monopolistic Practices and the Protection of Consumer Interests, in markets other than the telecommunications market, shall conduct their telecommunications activities through separate organisations.

Section 4. Emergencies ➔

Article 64

(1) The operators shall have the obligation to allow for emergencies, including the declaration of martial law, a state of emergency or of a natural disaster in the planning, deployment, extension, operation or interconnection of telecommunications networks.

(2) Authorised operators shall have the obligation to keep up-to-date emergency action plans, covering in particular:

the operators' collaboration with the agencies co-ordinating the activities of statutory rescue services and with the Armed Forces,

the protection of telecommunications networks and equipment against the potential hazards,

the preservation of uninterrupted service, especially for the rescue services,

the performance of services in kind by the operators of telecommunications networks and the users of telecommunications equipment,

keeping stockpiles and the records thereof.

(3) The minister competent for posts and telecommunications shall lay down by ordinance the detailed procedures for drafting the plans stipulated in paragraph (2) and their updates, taking account of the scope of telecommunications activities performed by the operators, as well as the requirements specified in paragraph (2).

Article 65

(1) In emergencies authorised operators shall promptly take the measures provided for in their plans stipulated in Art. 64, paragraph (2), maintaining or restoring the provision of telecommunications services first to services responsible for rescuing of human life, then to government administration and local self-government, Police, Armed Forces, Civil Defence, Penitentiary Service and the remaining users, using both their own networks and the networks of other operators, in particular by making their telecommunications equipment available, insofar as practicable, for the duration of rescue operations.

(2) The provisions of paragraph (1) shall govern, as applicable, persons using transmitting and transmitting-receiving radio equipment in radiocommunications services.

(3) The provisions of paragraph (1) shall also apply, as appropriate, during rescue or relief operations in connection with emergencies on an international scale, at least to the extent stipulated in agreements to which the Republic of Poland is party.

Article 66

(1) In the event of the declaration of martial law, a state of national emergency or of a natural disaster the minister competent for posts and telecommunications may by its decision:

impose specific duties upon authorised operators relative to the maintenance of the uninterrupted provisions of telecommunications services,

assign emergency numbers to specific services or organisations,

restrict the availability of certain telecommunications services to the public,

restrict the scope of the operation of telecommunications networks or the use of selected transmitting and transmitting-receiving radio equipment, with the exception of radio equipment used by units and organisational divisions stipulated in Art. 4, paragraph (1),

mandate the free provision, within a predetermined scope, telephone services originating from public payphones.

(2) Decisions issued in pursuance of paragraph (1) shall become void by force of the law on the date of the lifting of martial law, state of emergency or natural disaster.

Section 5. Telecommunications Secrecy and Processing of Personal Data in Telecommunications ➔

Article 67

(1) The secrecy of communication in telecommunications, hereinafter referred to as "telecommunications secrecy" shall include information transmitted in telecommunications

networks, user data, as well as information about the facts, circumstances and the nature of the calls, attempts at accessing particular network termination points, as well as the identification or tracing of the network termination points, between which the calls have been made.

(2) All persons who in relation to their part in telecommunications activities have access to information or data stipulated in paragraph (1) shall observe telecommunications secrecy.

(3) Except as otherwise provided for by the present Act, the disclosure or processing of information or data protected by telecommunications secrecy shall constitute a violation thereof.

(4) The provisions of paragraphs (2) and (3) shall not apply to information and data, which are public by their nature or purpose - or have been disclosed pursuant to a court or prosecutor's office order, or pursuant to separate provisions.

(5) Organisations performing telecommunications activities shall use due diligence insofar as practical in view of the technical or commercial considerations to protect their telecommunications equipment, networks and data files against the disclosure of telecommunications secrecy.

(6) Organisations conducting telecommunications activities shall advise their users and subscribers about the fact that the implemented technical measures do not guarantee the security of information transfer and about the existing means of assuring such security, and the costs involved therein.

Article 68

(1) A person, who while using a radio device took knowledge of information intended for another, shall be bound to observe telecommunications secrecy. The provisions of Art. 67, paragraphs (3) and (4) shall govern as applicable.

(2) Telecommunications secrecy shall not be deemed violated where information obtained as stipulated in paragraph (1), was recorded by a telecommunications audit authority performing an audit of telecommunications activities to document an infringement of the provisions of the present Act.

(3) Persons acting on behalf of the operator shall have the right to tap into calls where necessary to repair breakdowns, interference or for other purposes related to network maintenance or the provision of telecommunications services, provided that they duly advise the persons participating in the connection of the fact.

Article 69

(1) Without prejudice to the provisions of paragraph (2), information or data protected by telecommunications secrecy may be gathered, recorded, stored, processed, modified, erased or made available only where such activities, referred to as "data processing" in the present Act, constitute the object of the service provided to the user or are indispensable for its provision. Information or data processing for other purposes shall be allowed only subject to statutory provisions.

(2) The processing of user data for users being natural persons may involve:

the surnames and names of the user,

the names of the user's parents,

the birthplace and the date of birth of the user,

the user's permanent residence,

the user's PESEL number,

the names and numbers of the user's ID documents,

the user's tax identification number (NIP), at user's request only,

the user's bank account number or the number of the user's debit/credit card, at user's request only.

(3) Operators or entities providing telecommunications services shall have the obligation to advise the users with whom service contracts are concluded about the kind of user data that will be processed by the operator.

Article 70

(1) Personal data included in publicly accessible directories, as well as the data provided by directory services shall be confined to:

the subscriber's number or identification sign,

surname and name of the subscriber,

the name of the locality in which the network termination point provided to the subscriber is located,

the name of the street at which the network termination point provided to the subscriber is located.

(2) Any extension of the scope of the data stipulated in paragraph (1) shall require the consent of the subscriber.

(3) A subscriber being a natural person may file a reservation relative to the incorporation of his/her subscriber identification data in a publicly accessible directory, relating in particular to his/her surname, names, sex or address, or part of the address, as well as relative to their disclosure through the directory services of the operator.

(4) Operators may charge fees for reservations stipulated in paragraph (3). Such fees shall correspond to the costs of such reservation and the amount thereof shall not operate as an impediment to the exercise of this right.

(5) The provision of subscribers' identification data other than the data stipulated in paragraph (3) in a publicly accessible directory or through directory services shall not infringe the legitimate interests of these parties.

Article 71

(1) The operators of public telephone networks allowing presentation of identification of the calling network termination point or of the network termination point from which a call is or was made, hereinafter referred to as the "presentation of calling-line identification" shall be required to enable, via a simple means:

the calling subscriber to eliminate the presentation of the calling-line identification at the called user's end during the set-up and progress of the call, or in a permanent manner on a per-line basis,

the called subscriber to eliminate the presentation of the calling-line identification of incoming calls and, where such identification is available prior to the establishment of an incoming call, also to enable him to reject incoming calls where the presentation of the calling-line identification has been eliminated by the calling subscriber or user.

(2) The operators of public telephone networks allowing the presentation of the identification of the network termination point to which a call is or was routed, hereinafter referred as the "presentation of connected line identification" shall be required to enable the called subscriber to eliminate, via a simple means, such presentation of the connected line identification at the calling user's end.

(3) The operators of public telephone network allowing automatic call forwarding shall be required to enable any subscriber to stop, via a simple means, automatic call forwarding by a third party to the subscriber's terminal.

(4) Public network operators shall be required to inform the subscribers that the networks they operate allow presentation of calling and/or connected line identification, and about the options mentioned in paragraphs (1)-(3).

(5) No fees shall be collected in respect of the use by the subscriber of the options mentioned in paragraphs (1)-(3).

(6) The elimination of the presentation of calling-line identification may be overridden only by:

statutory rescue services and government agencies performing tasks for national defence, state security and public law and order within the scope and on the conditions stipulated in separate provisions, for the purpose of answering calls,

network operators acting at the subscriber's request, where the applicant can prove that nuisance or malicious calls are routed to his/her number, for the purpose of tracing the numbers of the users calling the subscriber.

(7) The data identifying calling users stipulated in paragraph (6) shall be registered by the operator at the request of:

the agencies stipulated in paragraph (6), subparagraph 1,

the subscribers stipulated in paragraph (6), subparagraph 2.

(8) The data stipulated in paragraph (6) shall remain at the disposal of the operator, who will make such data available to government agencies performing tasks related to national

defence, state security and public law and order to the extent and on the conditions laid down in separate provisions.

Section 6. Liability for Non-performance or Improper Performance of Telecommunications Services ➡

Art. 72

(1) Without prejudice to the provisions of paragraph (2) and Art. 75, paragraph (1) operator liability for the non-performance or improper performance of telecommunications services shall be governed by the provisions of the Civil Code.

(2) Operators providing universal service shall be liable for the non-performance or the improper performance of services only to the extent provided for by the present Act.

(3) The provisions of paragraph (2) shall not apply where the non-performance or the improper performance was occasioned by wilful guilt, gross negligence on the part of the operator or tort.

(4) Operators providing international services shall be liable for the non-performance or the improper performance of services to such extent and on such principles as stipulated in international treaties to which the Republic of Poland is party.

Article 73

(1) For each day of the interruption in the provision of a periodically payable universal service the subscriber shall have the right to compensation amounting to 1/30th of the average monthly payment, calculated on the basis of the bills for the last three settlement cycles, however not reaching beyond the past 12 months.

(2) No compensation shall be due where the total duration of interruptions during the entire settlement cycle was less than 48 hours.

(3) Irrespective of the compensation, a refund equal to 1/30th of the monthly line rental for each day of such interruption shall be due to the subscribers of periodically payable universal services.

Article 74

(1) The minister competent for posts and telecommunications shall lay down by ordinance the detailed conditions for claims:

for the operator's failure to meet the time limits specified in Art. 51, paragraph (4),

non-performance or improper performance of a universal service,

- as well as the specific claim settlement procedures, taking account of the necessary protection of subscriber interests.

(2) All remedies available under the claim procedure shall be deemed exhausted where the operator had failed to pay the amounts claimed within three months of the filing of the claim.

Article 75

(1) The right to vindicate claims stipulated in the present Act, derived from relations with operators providing telecommunications services before the courts of law shall be available to users where all remedies available under claim settlement procedures have been exhausted.

(2) Claims vindicated in pursuance of the present Act shall be limited to 12 months from the end of the settlement period during which the disruption of service ended or from the day on which the service was performed, or was to be performed.

(3) The time limit for the limitation of claims shall not run during the period between the filing of a claim until the day a reply is provided, albeit for a period not exceeding the time allowed for the settlement of the claim.

CHAPTER IV. INTERCONNECTION OF TELECOMMUNICATIONS NETWORKS AND CO-OPERATION BETWEEN OPERATORS ➡

Article 76

(1) Authorised operators shall not refuse the interconnection of their telecommunications networks with the telecommunications networks of other operators where the latter had been deployed in accordance with the law.

(2) Without prejudice to the provisions of Art. 77, paragraph (3) any technically suitable point of telecommunications networks located in the service area of the connected operator's network may be the network interconnection point, unless there is an alternative point, located in the service area of the connecting operator, which is equally acceptable in economic terms to both operators.

Article 77

(1) The interconnection of telecommunications networks and operators' co-operation with that regard shall be based on conditions, which shall not discriminate against any party.

(2) The operators of interconnecting networks shall:

observe the requirements stipulated in Art. 53, paragraph (1),

provide mutual access to their telecommunications infrastructure intended for the interconnection of telecommunications networks, as well as, on the principles laid down in Art. 61 - the lease of telecommunications lines in the quality, number and transmission rates suitable for the proper provision of telecommunications services,

provide information related to mutually provided telecommunications services in the interconnected networks to such extent as may be required for settlement purposes,

advise each other about any contemplated changes in their telecommunications networks, which will require changes or adaptation in the networks of interconnected operators, at least one year in advance, unless otherwise agreed by the parties.

(3) When interconnecting with other networks, significant market power operators shall

meet all legitimate requests for access to their networks, including requests for access to their networks in all technically justified points thereof other than network termination points.

(4) Co-operating operators shall refrain from all technical, commercial or organisational measures impeding or preventing the exercise of rights or performance of the obligations by the parties related to network interconnection.

Article 78

(1) The operators shall lay down the terms and conditions of network interconnection, as well as of the operators' co-operation with this regard in network interconnection agreements.

(2) Network interconnection agreements shall be made in writing and include at least the parties' understanding with regard to:

the location of telecommunications network interconnection points,

the technical conditions of network interconnection,

interconnection settlements for:

a) access and mutual use of telecommunications networks,

b) non-performance or improper performance of mutually provided telecommunications services,

4) the ways to meet the requirements:

a) stipulated in Art. 53, paragraph (1), subparagraphs 1-4,

b) relative to electromagnetic compatibility,

dispute settlement procedures,

conduct in the event of:

a) amendments to the agreement,

b) the testing of the interoperability of the interconnected networks, especially of quality of telecommunications services testing,

c) the extension or upgrading of the interconnected telecommunications networks,

d) changes in the offering of telecommunications services,

e) changes in numbering,

the terms and conditions for termination of the agreement, in particular matters relative to the uninterrupted provision of universal service, if provided in the interconnected telecommunications networks, the protection of user interests, meeting the requirements of

national defence and security, as well as public law and order.

(3) Interconnection agreements may also contain, as appropriate for the types of interconnecting networks, the parties' understanding with regard to:

the types of mutually provided telecommunications services and additional facilities,

the maintenance of the quality of telecommunications services,

the efficient use of frequency resources,

sharing of numbering resources, including:

a) equal access to directory services, emergency numbers and other internationally agreed numbering,

b) number portability,

assuring compliance with the technical requirements,

assuring the uninterrupted provision of universal service in the event of the termination of the agreement.

(4) The President of the OTR shall lay down by its order issued at the request of one of the parties negotiating an interconnection agreement or ex officio if required, which of the issues stipulated in paragraph (3) should be included in the interconnection agreement.

(5) Operators shall provide other operators intending to conclude interconnection agreements with them with information required for the drafting of such agreements and offer interconnection terms not worse for the other parties than those used within their own companies or in their relations with their subsidiaries and affiliates, within the definition of the Act stipulated in Art. 46, paragraph (3).

(6) The parties to a network interconnection agreement, which will be terminated, where one of the parties is a significant market power operator shall notify the President of the OTR thereof at least 30 days prior to termination.

Article 79

(1) Authorised operators with significant market power with respect to the provision of universal services or leased-lines service shall draft their reference interconnection offers.

(2) Operators stipulated in paragraph (1) shall submit their draft offers or modifications thereof for approval by the President of the OTR.

(3) The President of the OTR may by its decision issued within 30 days of the receipt of a draft offer or of its modifications, refuse the approval of such draft offer or its modifications, where the draft offer or the modifications should contravene the law.

(4) The President of the OTR shall publish the approved offers or modifications in the OTR Bulletin at the operator's expense.

(5) Operators stipulated in paragraph (1) shall have the obligation to enter into network interconnection agreements on terms and conditions which shall not be worse for the other parties than those of the approved offer.

Article 80

(1) Interconnection charges in interconnection agreements concluded between authorised operators shall:

be fixed according to transparent and objective criteria, assuring equal treatment to all users,

take account of the justified costs, directly related to the telecommunications services performed, irrespective of the method of their performance and without prejudice to the provisions of paragraph (2) in the case of dominant operators.

(2) The provisions of paragraph (1) sub-paragraph 2 shall not apply to the provision of network access services.

(3) Without prejudice to the provisions of Art. 87 interconnection charges in interconnection agreements concluded between authorised operators and organisational units or divisions stipulated in Art. 4. paragraph (1) shall be governed by the provisions of paragraph (1) above.

(4) The President of the OTR may request the parties to submit evidence in support of their tariffs stipulated in paragraph (2) and - in the case of dominant operators - also a justification of the costs incurred in connection with the exchange of telecommunications services.

Article 81

The minister competent for posts and telecommunications shall lay down by ordinance the detailed requirements relative to the interconnection of telecommunications networks, concerning:

the performance of obligations relative to network interconnection, in particular those relating to compliance with the requirements stipulated in Art. 53, paragraph (1),

the interconnection charges between authorised operators, including the cost accounting systems related to these services, in the case of dominant operators,

the extent and principles for compensating the operators of fixed public telephone networks for deficits incurred in connection with the deployment and operation of the lines linking user-available network termination points with these operators' switching equipment of the telecommunications networks, including the charges therefor and taking account of the principle of the separation of these charges from the charges stipulated in sub-paragraph 2.

the scope of offers stipulated in Art. 79.

Article 82

(1) The party requesting interconnection shall submit the interconnection agreement to the President of the OTR within 14 days of the conclusion thereof.

(2) Without prejudice to the provisions of paragraph (3), the President of the OTR shall make the texts of network interconnection agreements between authorised operators available to all interested operators free of any charge.

(3) The President of the OTR may rule that certain parts of interconnection agreements shall not be made available. Such exclusions shall not apply to matters relative to mutual interconnection settlements or to the implementation of requirements stipulated in Art. 53, paragraph (1) with regard to universal service.

Article 83

(1) Where one of the parties to the agreement is a significant market power operator, the President of the OTR may by its order lay down the time limit for the conclusion of interconnection agreement negotiations, never exceeding 90 days from the date of the request for interconnection, at the written request of either party or ex officio.

(2) Where one of the parties had refused to enter into an interconnection agreement or where such agreement has not been concluded within the time limit prescribed in paragraph (1) above, or within 90 days of the application therefor, either party may apply to the President of the OTR for a decision setting forth the terms for the interconnection of telecommunications networks and interconnection charges, hereinafter referred to as the "network interconnection decision".

(3) The application shall include the draft interconnection agreement, stating the positions of the parties at least with regard to matters provided for by the present Act, showing parts of the agreement where the parties have failed to agree.

(4) At the request of the President of the OTR the parties shall submit within 14 days, their respective positions on the divergences and the documents required for the case to be considered.

Article 84

(1) The President of the OTR shall make its decision on network interconnection within 60 days of the filing of the application stipulated in Art. 83, paragraph (2) after holding an administrative hearing, taking account of, inter alia:

the interests of the users of the interconnecting networks,

the obligations imposed upon the operators of the interconnecting networks,

the need to assure the broadest possible access to telecommunications services to the users of the interconnecting networks,

the promotion of innovative telecommunications services,

the nature of the divergences between the parties and the feasibility of solutions relating to the technical and economic aspects of network interconnection, both those proposed by the operators of the interconnecting networks and potential alternative solutions,

the need to assure:

a) the integrity and interoperability of the interconnected networks,

b) equal access,

c) the development of a competitive market of telecommunications services,

the respective positions of the operators of the interconnecting networks in the market of telecommunications services,

public interest, including environmental protection,

the need to assure the uninterrupted provision of universal service.

(2) The decision shall supersede the interconnection agreement.

(3) Where the parties should conclude an interconnection agreement the decision on network interconnection shall become void by force of the law in its parts covered by the agreement.

(4) Financial claims relative to the non-performance or the improper performance of obligations resulting from the decision on network interconnection shall be vindicated before the courts of law.

Article 85

(1) The President of the OTR may at all times mandate by its order the parties to modify the provisions of the agreement in order to assure effective competition or network interoperability.

(2) The order stipulated in paragraph (1) may be appealed against.

Article 86

The provisions of Art. 82-84 shall govern the modifications of network interconnection agreements, as applicable.

Article 87

The President of the Council of Ministers shall lay down by ordinance the detailed terms and conditions for the co-operation of organisational units and divisions stipulated in Art. 4, paragraph (1) with public network operators with regard to the interconnection of telecommunications networks, taking account of the principles stipulated in Art. 76 through Art. 85 and of the specific nature of activities pursued by these organisations.

CHAPTER V. TELECOMMUNICATIONS INFRASTRUCTURE AND TERMINAL EQUIPMENT ➔

Section 1. Requirements for Telecommunications Networks and Telecommunications Equipment ➔

Article 88

(1) Telecommunications equipment, as well as cables, wires and accessories used in or connected to telecommunications networks shall assure:

user and employees' or telecommunications networks safety,

interworking with other telecommunications equipment used in or connected to telecommunications networks and - in particular - shall not damage equipment in telecommunications networks or interfere with its operation,

the efficient use of radio frequency spectrum or orbital resources, in the case of radiocommunications equipment,

compliance with electromagnetic compatibility requirements insofar as they are specific to terminal equipment.

(2) The minister competent for posts and telecommunications may lay down by ordinance:

additional requirements from amongst requirements dealing with:

a) assuring telecommunications secrecy,

b) the protection against unauthorised use,

c) assuring access to the equipment or networks to statutory rescue services,

d) the adaptation for use by disabled persons,

- which, irrespective of the requirements specified in paragraph (1) should be met by the specific types of equipment or classes of equipment and fixing the time limit until which equipment legally marketed before the passing of the ordinance, not conforming to the requirements of the ordinance, may be used,

the detailed technical and operating specifications for telecommunications equipment and networks, including the technical and operating requirements for commonly used public network interfaces for analogue or digital networks, in particular for integrated, digital data networks, with regard to the requirements stipulated in sub-paragraph 1 and paragraph (1), hereinafter referred to as the "essential requirements" for telecommunications equipment and networks, in line with the requirements of European standardisation organisations and in their absence - the requirements of other international standardisation organisations of which the Republic of Poland is a member.

the minister competent for posts and telecommunications, acting in communication with the Minister of National Defence, the Minister of Justice, the minister competent for public finance and the minister competent for internal affairs, having sought the opinion of the Head of the State Protection Office, shall lay down by ordinance the detailed technical and operating requirements for telecommunications networks and telecommunications equipment relative to their suitability for the operators' performance of the obligations stipulated in Art. 40, paragraph (2), taking account of the fact that telecommunications networks and equipment operated by these operators should enable authorised agencies to access and record information and data specified in Art. 67, paragraph (1), and in line with the requirements of European standardisation organisations or, in the absence of such requirements - the requirements of other international standardisation organisations of which the Republic of Poland is a member.

Article 89

(1) Acting in communication with the minister competent for the economy, the minister competent for maritime economy and the minister competent for transportation, the minister competent for posts and telecommunications shall lay down by ordinance the conditions for the construction of telecommunications infrastructure in localities, along public roads, canals and waterways, in the vicinity of airfields and will also lay down the conditions for co-location or where such infrastructure should cross or approach railway tracks, public roads, waterways and canals, power lines and equipment or installations intended for the transport of fluids and gases, taking account of the need to simplify the process of the deployment of telecommunications infrastructure and of the need to assure the security of its operation and third-party safety.

(2) Acting in communication with the minister competent for the economy, the minister competent for maritime economy and the minister competent for transportation, the minister competent for posts and telecommunications shall lay down by ordinance the requirements to be met by telecommunications infrastructure and power lines, electric railway traction lines and installations for the transport of fluids and gases in the case of co-location or where such infrastructure should cross or approach, so as to assure its operation in the event of breakdowns of such installations and to protect it from disturbances generated by power lines or overhead trolley wires.

Article 90

(1) Organisations marketing telecommunications equipment shall, at the request of the President of the OTR provide explanations relative to the purpose for which the equipment is intended, its technical and operating specifications, as well as indicate the scope of its intended applications.

(2) The provisions of paragraph (1) above shall not apply to telecommunications equipment used by organisational units and divisions stipulated in Art. 4, paragraph (1), sub-paragraphs 1-6.

Section 2. Telecommunications Equipment Conformity Assessment ➡

Article 91

(1) Except as expressly otherwise stipulated in the present Act terminal equipment intended for connection to public network termination points, accessories intended for the connection of terminal equipment to telecommunications networks and transmitting and transmitting-receiving equipment shall require the assessment of conformity with the essential requirements.

(2) The document or mark confirming that equipment stipulated in paragraph (1) meets the essential requirements shall be:

a certificate or mark of conformity of the equipment with the essential requirements issued by a duly authorised agency,

without prejudice to the provisions of paragraph (3), a certificate or mark of conformity of the equipment with the essential requirements issued by an authorised foreign agency, recognised by the competent Polish authority for certification,

without prejudice to the provisions of paragraph (3), a declaration of conformity of the equipment with the essential requirements issued by the producer or its representative,

a type-approval certificate or mark indicating that the piece of equipment has such a certificate issued in pursuance of the Act stipulated in Art. 131.

(3) The provisions of paragraph (2), subparagraphs 2 and 3 shall not apply to transmitting or transmitting-receiving radio equipment, which does not require a permit for its use, intended for operation in radio frequency bands disallowed in the Republic of Poland for use by the radiocommunications service for which the equipment was intended.

(4) The provisions of paragraph (1) shall not apply to:

equipment adapted exclusively for use in the amateur radiocommunications service, not available on a commercial basis,

radio equipment adapted exclusively for the reception of radio or television signals,

equipment used by organisational units and divisions stipulated in Art. 4, paragraph (1), subparagraphs 1-6.

(5) The minister competent for posts and telecommunications may list by ordinance other types of equipment specified in paragraph (2) above, which shall not require the assessment of conformity with the essential requirements, provided that the principles of their operation or construction assure compliance with these requirements.

Article 92

The principles for the assessment of conformity with the essential requirements, award of conformity certificates, marking with conformity marks, as well as the sanctions for the award of conformity marks for equipment not conforming to the essential requirements shall be regulated by separate provisions.

Article 93

(1) The President of the OTR may issue a decision allowing the temporary use of telecommunications equipment requiring the assessment of conformity with the essential requirements without the document or mark conforming compliance with the essential requirements:

in order to perform the assessment of conformity with the essential requirements, at the request of the laboratory testing the equipment,

for experimental purposes, within the scope specified by the President of the OTR,

to provide circumstance information broadcasts,

- on the conditions laid down in a decision or - where radio equipment is involved - in a permit.

Article 94

(1) Commercially available telecommunications equipment requiring the assessment of conformity with the essential requirements shall be marked to confirm compliance with the essential requirements.

(2) Marketing telecommunications equipment requiring mandatory conformity assessment with the essential requirements without the required mark of conformity with the essential requirements shall be prohibited.

(3) The minister competent for posts and telecommunications shall lay down by ordinance the marking for equipment, which had received a type-approval certificate, taking account of the fact that such marking should be unequivocal and legible to the buyers.

Article 95

Organisations performing telecommunications activities shall provide the President of the OTR at its request with the data on telecommunications networks or equipment that they operate or use.

Article 96

(1) Authorised operators shall allow the co-location by other operators operating public networks with regard to their buildings, lines, conduits, poles, towers and masts, in particular allowing the deployment, operation and maintenance of telecommunications equipment, where these activities would be impossible without infrastructure co-location or would involve incommensurate outlays.

(2) The obligation stipulated in paragraph (1) shall not apply to co-location for the purpose of the provision of telephone service from a line linking a network termination point provided by the operator to the subscriber with the switching equipment of that operator.

(3) The conditions for the co-location of telecommunications infrastructure shall be laid down in an agreement between the operators, which shall be concluded within 30 days of the application for the conclusion thereof.

(4) Where the parties should fail to bring such an agreement about within the time limit prescribed in paragraph (3) the provisions of Art. 79, Art. 80, paragraph (1) and paragraph (4), and Art. 83-85 shall govern as applicable.

Article 97

(1) Owners and perpetual usufructuaries shall allow the deployment of telecommunications equipment on their property by authorised operators, including underground or overhead cables and the installation of signboards, as well as its operation and maintenance, unless such deployment should prevent the rational use of such property.

(2) The use of third-party property within the extent stipulated in paragraph (1) above shall be payable, unless the line or the equipment are used to provide telecommunications to the owner or user of their property at their request.

(3) The conditions for the use of the property by the operator shall be laid down in an agreement which shall be concluded within 30 days of the operator's application for the conclusion thereof.

(4) Where the parties should fail to bring about the agreement within the prescribed time limit the provisions of the Act of 21st August, 1997 on property management (O.J. No 115, item 741 and of 1998, No 106, item 668, of 1999, No 49, item 484 and No 86, item 966 and of 2000, No 6, item 70) shall govern.

(5) The provisions of paragraphs (1)-(4) shall also govern, as applicable, where the property is in usufruct, under a lease agreement, tenancy agreement or permanent administration.

Article 98

Telecommunications infrastructure co-location by operators who had obtained the right to deploy, use or maintain such infrastructure on third-party property shall be governed by the provisions of Art. 97, as applicable.

CHAPTER VI. MANAGEMENT OF NUMBERING AND RADIO SPECTRUM RESOURCES ➔

Section 1. Numbering Resources Management ➔

Article 99

(1) The President of the OTR shall assign numbering:

to operators in their authorisations or in decisions, in accordance with the national numbering plans for public networks,

at their request, to the organisational units and divisions stipulated in Art. 4, paragraph (1), subparagraphs 1-6.

(2) The assignment of the numbering may lay down the terms for the use or provision of numbering.

(3) The assignment of numbering shall be governed by the provisions of Art. 24, paragraph (1), subparagraphs 2-4 and Art. 25.

(4) The Chairman of the OTR shall refuse to assign numbering where numbering is not available or the requested allocation of numbering does not correspond to the applicable national numbering plan for public networks.

(5) The Chairman of OTR may withdraw a numbering assignment or limit its scope where:

changes had been implemented in the applicable national numbering plan for public networks,

an operator should fail to assure the efficient use of the numbering assigned,

an operator should use the allocated numbering in contravention of the conditions of the assignment or its purpose laid down in the relevant national numbering plan for public networks.

(6) The decision on the withdrawal of numbering or limitation of its scope:

shall not operate to disrupt the continuity of the provision of telecommunications services by the operator who had been granted the assignment,

shall take account of the current needs of the operator and of the needs derived from the authorisation,

shall not be made without a prior unsuccessful request being made to the operator to remedy the irregularities in cases stipulated in paragraph (5), subparagraphs 2 and 3.

(7) The minister competent for posts and telecommunications shall lay down by ordinance:

the detailed requirements relative to the management of numbering resources,

the National Numbering Plan for Public Telephone Networks,

taking account of the current and anticipated needs of authorised operators and users, including the services stipulated in Art. 102, understandings of European telecommunications organisations, especially with respect to long-term, pan-European numbering plans, as well as the provisions of treaties to which the Republic of Poland is party.

(8) The minister competent for posts and telecommunications may lay down by ordinance national numbering plans for public networks other than public telephone networks, as well as the detailed requirements for the creation and provision of subscriber identification signs, taking account of the current and anticipated needs of the authorised operators and users, understandings of European telecommunications organisations, especially with respect to long-term, pan-European numbering plans, as well as the provisions of treaties to which the Republic of Poland is party.

Article 100

(1) The President of the OTR shall draw up a consolidated list of numbering assigned to operators in the form of the National Numbering Table. The Table shall be public.

(2) The OTR shall provide free information about the availability of numbering to all parties concerned.

Article 101

(1) Operators shall provide their assigned numbering to operators interconnected with their telecommunications networks and to parties providing telecommunications services, at their request and in accordance with written agreements on the provision of numbering.

(2) The agreements on the provision of numbering may lay down the conditions for the use of the numbering provided.

(3) Operators shall refuse to enter into agreements on the provision of numbering where numbering resources are not available or where the provision of numbering could impede or restrict the exercise of the authorisation by an authorised operator or by another operator to whom numbering had been assigned at an earlier date.

(4) Said agreements shall be governed by the provisions of Art. 80, paragraph (1) and (4), and Art. 83-85, as applicable.

Article 102

(1) Statutory rescue services shall have the right to the assignment of emergency numbers.

(2) Number 112 shall be the common emergency number for all statutory rescue services.

Article 103

The provisions of Art. 99 and Art. 101 shall govern the assignment, refusal to assign and withdrawal of subscriber identification signs, as well as their provision and refusal to provide, as applicable.

Article 104

(1) Operators shall have the right to implement the necessary changes in numbering in selected areas of their public networks or of selected numbers of the network's subscribers, where their assigned numbering had changed or in connection with the extension or upgrading of their public networks.

(2) Operators shall publish such anticipated changes in the numbering of selected network areas at least 3 months prior to their anticipated implementation.

(3) Operators shall advise their subscribers in writing about the anticipated change of their individual numbers and about their new numbers at least 3 months prior to the anticipated implementation. A shorter notice shall require the approval of the President of the OTR.

(4) Operators shall provide free, automatic voice information about the implementation of numbering changes stipulated in paragraphs (1)-(3), available under the old numbers, for a period of at least 12 months.

Section 2. Frequency Spectrum Management ➡

Article 105

(1) The allocation of frequencies and radio frequency bands for the particular radiocommunications services shall be laid down in the National Frequency Allocation Table.

(2) The Council of Ministers shall by ordinance lay down the National Frequency Allocation Table, thus implementing national policy with regard to the management of frequency resources, compliance with electromagnetic compatibility requirements and telecommunications, taking account of international radiocommunications regulations and the requirements relative to:

assuring a harmonious development of radiocommunications services and those areas of science and technology, which use frequency resources,

the implementation of new, effective telecommunications technologies,

national security and defence.

(3) The National Frequency Allocation Table shall be updated at least once every 2 years.

Article 106

(1) Following consultation with the Telecommunications Council the President of the OTR shall draft the Frequency Management Plans and any modifications thereof:

relating to the radio frequency bands intended for the broadcasting of radio or television programming - at the request and in communication with the Chairman of the National Radio and Television Council,

at the request of the authority for which such a reservation is made, in communication with that authority,

in accordance with the needs and subject to technical practicality, for the remaining radio frequency bands.

(2) Frequency Management Plans and their modifications shall specifically take account of the national policy with regard to the management of the frequency resources, radio and television broadcasting, telecommunications, compliance with the requirements of electromagnetic compatibility, as well as of defence and national security and the guidelines the policy ruling the award of authorisations requiring frequency reservations stipulated in paragraph (1), sub-paragraph 1.

(3) Frequency Management Plans and their modifications shall not infringe earlier permits or frequency reservations.

(4) The OTR shall provide free-of-charge information about radio frequency spectrum availability to all parties concerned.

(5) The President of the OTR shall publish its information about the beginning of work on Frequency Management Plans for specific radio frequency bands or on modifications to the existing plans in the OTR Bulletin. Parties interested in the use of these frequencies may file their proposals relative to such plans or modifications.

Article 107

(1) The minister competent for posts and telecommunications may lay down by ordinance the detailed conditions for the operation of the respective radiocommunications services within their allocated radio frequency bands, taking account of the requirements applied in drafting the National Frequency Allocation Table.

(2) The minister competent for posts and telecommunications may lay down by ordinance the detailed conditions for the use of the radio frequency bands intended for radio equipment used in the industry, medicine and science, taking account of the requirements applied in the drafting of the National Frequency Allocation Table.

Article 108

(1) Apparatus shall be built so as:

the electromagnetic disturbance it generates in its environment does not exceeded the electromagnetic disturbance immunity of other apparatus or systems operating in that environment,

it has the requisite level of electromagnetic disturbance immunity.

(2) The minister competent for posts and telecommunications or the minister competent for the economy, each acting within its authority, may lay down by ordinance the detailed technical and operating requirements that the apparatus should meet to fulfil the conditions stipulated in paragraph (1), in line with the requirements of European standardisation organisations and in their absence - the requirements of other international standardisation organisations of which the Republic of Poland is a member.

(3) The apparatus shall be subject to the mandatory assessment of conformity with the requirements stipulated in paragraph (1), hereinafter referred to as the "essential requirements for electromagnetic compatibility", with the exception of apparatus stipulated in Art. 91, paragraph (4), subparagraphs 1 and 3.

(4) The provisions of Art. 91, paragraphs (2) and (3), Art. 92, Art. 93 and Art. 94 paragraphs (1) and (2) shall govern the apparatus subjected to the mandatory assessment of conformity with the essential requirements for electromagnetic compatibility, as applicable.

CHAPTER VII. REGULATORY AUTHORITIES ➔

Section 1. President of the Office of Telecommunications Regulation ➔

Article 109

(1) The President of the OTR shall be the competent regulatory authority for telecommunications activities, frequency management and the monitoring of compliance with electromagnetic compatibility requirements.

(2) The President of the OTR shall be a "central-level administration authority".

(3) The President of the OTR shall be appointed and dismissed by the President of the Council of Ministers.

(4) The President of the OTR shall be appointed for a 5-year term.

(5) Only a Polish citizen with academic education may be appointed to the position of the President of the OTR.

(6) The President of the OTR may be dismissed before the end of the term for which he/she was appointed only:

in the event of a gross violation of the present Act,

a sentence barring him/her from managerial positions or functions related to special responsibility in the state administration being pronounced against him/her,

where he/she should commit an intentional offence prosecuted ex officio, as confirmed by a

final court sentence,

in the event of an illness permanently preventing him/her from the performance of his/her duties,

in the event of his/her resignation.

(7) Where the President of the OTR should be dismissed prior to the end of his/her term, the President of the Council of Ministers shall appoint his/her successor for the period remaining until the end of the term.

(8) The deputies of the President of the OTR shall be appointed and dismissed by the President of the Council of Ministers at the request of the President of the OTR.

(9) The President of the OTR shall be the executive authority with respect to the administrative vindication of non-pecuniary obligations.

Article 110

(1) The competencies of the President of the OTR shall include, in particular:

duties relative to the regulation of telecommunications activities and frequency management, as well as the monitoring of compliance with the requirements of electromagnetic compatibility, provided for by the present Act and provisions issued in pursuance thereof,

collaboration with the minister competent for posts and telecommunications in drafting legal acts within the competencies of the President of the OTR,

assessment of the operation of the market of telecommunications services and of the telecommunications equipment market,

intervention in matters related to the functioning of the market of telecommunications services on its own initiative or brought to its attention by the parties concerned, in particular by users and operators, including the making of decisions on these matters within the scope provided for by the present Act,

creating conditions for the development of the domestic radiocommunications service by securing the necessary frequency assignments for Poland and access to satellite-orbital resources,

duties related to national defence and security,

co-operation with international telecommunications organisations and competent foreign national authorities, within the competencies of the President of the OTR,

ruling on the professional qualifications in telecommunications laid down in separate legal provisions,

inspiring and supporting scientific research.

(2) The President of the OTR shall submit to the President of the Council of Ministers an

annual report on its activities in the preceding year, latest by the end of April.

(3) The President of the OTR shall submit to the minister competent for posts and telecommunications information on its activities within the time limit prescribed in paragraph (3).

Article 111

(1) Without prejudice to the provisions of paragraphs (2)-(4), proceedings before the President of the OTR shall be governed by the Code of Administrative Proceedings.

(2). Decisions of the President of the OTR stipulated in Art. 57, paragraphs (1)-(3), Art. 84, paragraph (1), Art. 124, paragraph (2) and Art. 125, paragraph (1) may be appealed against to the District Court of Warsaw - the Anti-Monopoly Court, within 14 days of the service of such decision.

(3) Proceedings relative to appeals against the decisions of the President of the OTR stipulated in paragraph (2) above shall be conducted in accordance with the provisions of the Code of Civil Proceedings on proceedings relative to business matters.

(4) The decisions of the President of the OTR, which can be appealed against, shall be governed by the provisions of paragraphs (2) and (3), as applicable, except that the appeal shall be filed within 7 days.

Article 112

(1) The President of the OTR shall discharge its duties through the Office of Telecommunications Regulation, hereinafter referred to as the "OTR".

(2) The President of the OTR shall manage its financial activities in accordance with the principles applicable to budget-funded units.

(3) The expenses of the OTR shall be financed by the state budget in the amount fixed each year in the Annual Budget Act.

(4) The funds for remuneration of the President of the OTR, the Deputy Presidents and employees of the OTR shall be fixed in proportion to remunerations paid in the telecommunications industry, including bonuses and other allowances.

(5) The President of the OTR, the Deputy Presidents and the employees of the OTR may receive bonuses payable out of the separate sub-account of the OTR account stipulated in Art. 32, paragraph (1), subparagraph 5.

(6) The President of the OTR shall lay down in the rules and regulations approved by the President of the Council of Ministers the detailed procedure for the award, calculation and payment of bonuses stipulated in paragraph (5) to OTR employees, under the reservation stipulated in Art. 32, paragraph (1), subparagraph 5, following the principle that the award and amount of bonus shall correspond to the individual assessment of the person concerned, taking account of the extent of the duties and quality of work, as well as dedication in the performance of the duties.

(7) The President of the Council of Ministers shall award the bonus to the President of the OTR and the Deputy Presidents of the OTR, and shall fix its amount under the reservation

stipulated in Art 32, paragraph (1), subparagraph 5.

(8) The President of the Council of Ministers shall lay down by ordinance the principles for the remuneration of the persons stipulated in paragraph (4), taking account of the principles of payroll calculation for these persons and the remuneration principles in civil service.

(9). The President of the Council of Ministers shall confer by ordinance the charter upon the OTR, specifying its administrative units and divisions, including a unit responsible for the co-ordination of frequency reservations within the radio frequency bands intended for the users stipulated in Art. 4, paragraph (1), subparagraph 1-4, in particular within the radio frequency bands freed by these users or shared with other users.

Article 113

(1) Regional OTR offices will be a part of the organisational structure of the OTR.

(2) The OTR charter shall designate the headquarters of regional OTR offices, their territorial and material jurisdiction, taking account of the basic administrative division of the country.

(3) Regional OTR offices shall be managed by Regional OTR Office Managers.

(4) The President of the OTR shall appoint and dismiss the Regional OTR Office Managers.

Article 114

(1) There will be a Telecommunications Council acting as a consultative and advisory body to the President of the OTR in matters of telecommunications activities, frequency management and compliance with electromagnetic compatibility requirements.

(2) The Telecommunications Council shall submit its opinions on all matters brought before the Council by the President of the OTR. The Council may also submit its opinions on its own initiative on matters within the jurisdiction of the President of the OTR, with the exception of matters concerning the performance of duties relative to national security by the President of the OTR.

(3) The President of the OTR shall seek the opinion of the Telecommunications Council on matters related to:

assuring access to universal services,

the quality of universal services,

the determination of the principles of network interconnection and operator's co-operation resulting therefrom.

(4) The Telecommunications Council shall be made up of 15 persons. The members of the Telecommunications Council shall be appointed and dismissed by the President of the Council of Ministers.

(5) The President of the Council of Ministers shall appoint to the Telecommunications Council:

one representative each of the minister competent for posts and telecommunications, the Minister of Defence, the minister competent for internal affairs, the Chairman of the National Council for Radio and Television, the Head of the State Protection Office and of the President of the Office for the Protection of Competition and Consumers selected amongst the candidates put forth by these authorities,

persons pre-eminent in terms of their knowledge and experience in matters coming within the competencies of the Council, including candidates designated by professional associations, scientific centres and research units, as well as organisations representing operators, users and telecommunications service providers, telecommunications equipment manufacturers and suppliers, as well as organisations involved in the construction of telecommunications infrastructure.

(6) The President of the Council of Ministers shall appoint and dismiss the President Telecommunications Council from amongst its members.

(7) The tenure of the Telecommunications Council shall expire with the expiry of the term of the President of the OTR.

Article 115

(1) The organisation and procedures of the Telecommunications Council shall be laid down in the working regulations adopted by the Council.

(2) The President of the OTR shall assure the backroom support necessary for the operation of the Council.

(3) The members of the Telecommunications Council shall receive an allowance and a refund of their costs according to the provisions regulating domestic business travel for their participation in its sessions.

(4) Employers shall have the obligation to delegate their employees to perform the duties resulting from membership in the Telecommunications Council.

(5) The President of the Council of Ministers shall lay down by ordinance the remuneration for the participation in the sessions of the Telecommunications Council, never lower than 150% of the average industrial wage for December of the previous year, as published by the President of the Central Statistical Office in the Official Journal of the Republic of Poland - "Monitor Polski".

Article 116

(1) The President of the OTR shall publish the OTR Bulletin.

(2) The OTR Bulletin shall publish information and rulings of the President of the OTR as prescribed by the present Act, recommendations relative to the application of technical standards or requirements, annual reports on the quality of universal service provision by the operators, information on cost accounting systems used by significant market power operators with regard to the provision of services over public telephone networks or in leased-lines service, lists of authorisations awarded, information and announcements relative to the use of the frequencies and electromagnetic compatibility, as well as other information within the scope prescribed by the President of the OTR.

Section 2. Audit and Post-audit Proceedings ➔

Article 117

The President of the OTR is authorised to monitor the compliance with the provisions, decisions and rulings on telecommunications, the management of the frequency resources and compliance with electromagnetic compatibility requirements.

Article 118

(1) Subject to the presentation of their service ID's and a written authorisation, OTR employees shall have:

access to materials, documents and other data necessary for the performance of audits, as well as the right to make copies thereof,

access to all sites and properties, as well as all premises of the audited organisations,

the right to inspect telecommunications networks and equipment,

the right to prevent the further use or to impound and keep in deposit any radio equipment used without the requisite permit or operated by unauthorised personnel,

the right to temporarily impound radio equipment in order to conduct tests designed to ascertain the causes of disturbances,

the right to carry out audits, measurements and tests on telecommunications networks and equipment and to monitor the quality of telecommunications services.

(2) The managers of organisations undergoing audit shall provide OTR employees stipulated in paragraph (1) with all the necessary information and assure that they have:

the conditions required for the efficient conduct of their audits,

access to materials, equipment and network data, stipulated in paragraph (1) above,

access to the sites, properties and premises stipulated in paragraph (1),

free-of-charge access to telecommunications networks or telecommunications equipment undergoing audit, for the purpose of performing tests on telecommunications networks or telecommunications equipment.

(3) The provisions of paragraph (2), subparagraphs 1 and 2 shall govern natural persons undergoing audit, as applicable.

(4) The President of the OTR may request the submission of materials, documents or data stipulated in paragraph (1), sub-paragraph 1 above and perform audits in collaboration with other government audit authorities.

(5) Audit procedures may be performed remotely. Measurements obtained using remote instruments shall assure the identification of the measuring instruments used. The provisions of paragraph (7) shall not apply to remote audits.

(6) The auditing authority conducting the audit shall draw up an audit report and have it signed by the auditing employee.

(7) Reports stipulated in paragraph (6) shall be countersigned by the managers of the audited organisations, persons authorised by the managers or the natural persons whose activities were audited.

(8) Audit procedures and tests stipulated in paragraphs (1)-(5) shall be governed by the provisions on protection of restricted information and telecommunications secrecy.

Article 119

Where a violation of the provisions, decisions or ruling on telecommunications, frequency resource management or compliance with electromagnetic compatibility requirements has been ascertained, the President of the OTR, shall issue a decision specifying the extent of the infringement and the time to remedy the irregularities.

Article 120

(1) Where it has been established that radio equipment is used without the requisite permit or operated by an unauthorised person, the President of the OTR shall issue a decision ordering the immediate discontinuation of its use or operation by unauthorised personnel. The decision shall have immediate effect.

(2) The decision issued in pursuance of paragraph (1) above may include an order to prevent the further use or operation of the radio equipment, or the seizure thereof for keeping in a deposit.

(3) The President of the OTR shall quash the ruling on the impoundment of radio equipment due to:

the lack of a permit - as of the date of the issuance of the permit to the user, unless forfeited in favour of the State Treasury by a court order,

its operation by an unauthorised person - promptly after the documentation of fact that the person operation the radio equipment has the requisite radio operator's certificate.

(4) Radio equipment seized for keeping in a deposit in connection with:

the lack of a permit - shall be returned to the user once the permit has been issued to the user, unless the court had ordered its forfeiture,

its operation by an unauthorised person - promptly after the documentation of fact that the person operation the radio equipment has the requisite radio operator's certificate.

Article 121

(1) Where it has been established that the apparatus generating an electromagnetic field interfere with the operation of other apparatus complying with electromagnetic compatibility requirements, the President of the OTR may order in its decision stipulated in Art. 119:

the temporary discontinuation of the use of such interfering apparatus,

the modification of its mode of application,

the application of technical measures leading to the elimination of such interference at the expense of the organisation to which the decision was issued, or order the temporary impoundment of the apparatus to perform the tests necessary to establish the causes of such interference. Such decisions shall have immediate effect.

(2) The President of the OTR may make the return of the impounded apparatus conditional upon the user's consent to have the causes of disturbances removed at its cost.

(3) The testing of impounded apparatus shall be conducted by the OTR within a maximum of 30 days of the date of its impoundment.

Article 122

(1) The provisions of Art. 118-121 shall not apply to organisational units and divisions stipulated in Art. 4, paragraph (1), sub-paragraphs 1 - 6, which perform the tasks stipulated in these provisions at their discretion.

(2) The President of the Council of Ministers shall lay down by ordinance the detailed procedures applicable to circumstances where it has been established that the apparatus generating an electromagnetic field, used by the organisational units and divisions stipulated in Art. 4, paragraph (1), sub-paragraphs 1 - 6 interferes with the operation of other apparatus complying with electromagnetic compatibility requirements, taking account of the nature of the tasks performed by these units and of the legitimate interests of the users of the apparatus affected by such interference.

(3) Acting in communication with the Minister of Justice, the minister competent for posts and telecommunications shall lay down by ordinance the procedures for the enforcement of the provisions of Art. 118-121 in the organisational divisions of the Penitentiary Service, taking account of the nature of the tasks performed by these units and of the legitimate interests of the users of the apparatus affected by such interference.

CHAPTER VIII. PENAL PROVISIONS, CHANGES IN THE PROVISIONS IN FORCE, TRANSITORY AND FINAL PROVISIONS ➔

Section 1. Penal Provisions and Financial Penalties ➔

Article 123

(1) Whoever uses transmitting or transmitting-receiving radio equipment without the requisite permit shall be liable to a financial penalty, limitation of liberty or deprivation of liberty for up to 2 years.

(2) The Court may order the forfeiture of the equipment intended for or used in the perpetuation of acts stipulated in paragraph (1), even when such equipment is not the property of the perpetrator.

(3) The Court shall order the forfeiture of the apparatus or objects intended for or used in the perpetuation of the act stipulated in paragraph (1) above, even when not owned by the perpetrator, where their use might constitute a hazard to human health or life. The

provisions of Art. 195 of the Executive Penal Code shall govern irrespective of the value of the objects in relation to which forfeiture had been ordered.

Article 124

(1) Any organisation:

failing to abide by the decisions of the President of the OTR concerning the conduct of telecommunications activities without the requisite authorisation or in contravention of the provisions of Art. 16,

failing to report to the President of the OTR any changes in the factual and legal status covered by the entry in the registry,

failing to submit to the President of the OTR the requisite information on the revenues generated from the provision of telecommunications services or information, or documents required to establish the sales of telecommunications services and market shares, or providing misleading information,

failing to use the cost accounting systems provided for in the present Act,

failing to submit the requisite reports on telecommunications activities or the information about the scope of these activities,

failing to meet the obligations imposed by a decision issued in pursuance of Art. 54, paragraph (5), or stipulated in Art. 55, paragraph (3),

failing to submit its specimen universal service contracts or the drafts of the modifications thereof, its draft tariff pages or amendments thereto, or its draft of rules and regulations for the provision of telecommunications services or the modifications thereof,

preventing the exercise of subscribers' rights stipulated in Art. 43 and Art. 71 despite the availability of the technical capabilities,

failing to meet the requirements dealing with the facilities for the disabled using universal services,

terminating the provision of universal service prior to the service being taken over by another operator,

failing to perform the obligations or tasks related to national defence and security or public law and order within the scope and on the conditions stipulated in the present Act or in decisions issued in pursuance thereof,

failing to meet the obligations or requirements relative to telecommunications network interconnection,

failing to meet the obligations relative to the reference interconnection offers or contracts on the provision of telecommunications services,

terminating interconnection agreements in contravention of the provisions of the present Act,

marketing equipment requiring the mandatory assessment of conformity with the essential requirements without the requisite document or mark confirming compliance with the essential requirements or inappropriately or falsely marked,

marketing equipment, which does not meet the requirements of electromagnetic compatibility,

failing to abide by the conditions for the interconnection of telecommunications networks or interconnection settlements stipulated in decisions issued in pursuance of Art. 84, paragraph (1), shall be liable to a financial penalty.

(2) Irrespective of the fines stipulated in paragraph (1) the President of the OTR may fine the manager of the business entity in question with a financial penalty of up to 300% of his/her monthly salary, as calculated for the refund of unused paid holidays, in cases stipulated in paragraph (1), sub-paragraphs 2-7 and 17.

(3) The imposition of a financial penalty shall not preclude the application of the provisions of Art. 12, paragraph (1), sub-paragraphs 1 and 2, as well as of paragraph (3).

(4) The collection of financial penalties shall be governed by the provisions on the administrative vindication of pecuniary obligations.

Article 125

(1) Financial penalties stipulated in Art. 124, paragraph (1) shall be imposed by the decision of the President of the OTR in the amount of up to 3% of the revenues of the fined organisation for the past calendar year. An immediate enforcement clause may not be appended to a decision to impose a financial penalty.

(2) In assessing the financial penalty the President of the OTR shall take account of the harmfulness of the act, degree of guilt, the operation of the organisation to date and its financial circumstances.

(3) The entity concerned shall provide the President of the OTR, at its request, within 30 days of receipt thereof, with the data necessary to assess the basis of the financial penalty. Where the entity in question should fail to provide the requisite data or where such data should prevent the assessment of the basis of the financial penalty, the President of the OTR shall make its own assessment of the amount of the financial penalty, but never less than:

the amount of the remuneration stipulated in Art. 115, paragraph (5) - for the financial penalty stipulated in Art. 124, paragraph (2),

the equivalent of EURO 100,000 - in the remaining cases.

(4) Where an entity has been operating for less than one calendar year, the amount of 100,000 ECU shall be used as the basis for the calculation of financial penalties.

(5) Financial penalties shall constitute the income of the state budget.

(6) The amounts EURO stipulated in paragraphs (3) and (4) shall be converted into PLN at the mean rate published for the EURO by the National Bank of Poland for the day on which the decision on the imposition of the financial penalty has been made.

Section 2. Changes in the Provisions in Force ➡

Article 126

The Act of 17th November, 1964 Code of Civil Proceedings (O.J. No 43, item 296, of 1965 No 15, item 113, of 1974 No 27, item 157, No 39, item 231, of 1975 No 45, item 234, of 1982 No 11, item 82, No 30, item 210, of 1983 No 5, item 33, of 1984 No 45, item 241 and 242, of 1985 No 20, item 86, of 1987 No 21, item 123, of 1988 No 41, item 324, of 1989 No 4, item 21, No 33, item 175, of 1990 No 14, item 88, No 34, item 198, No 53, item 306, No 55, item 318, No 79, item 464, of 1991 No 7, item 24, No 22, item 92, No 115, item 496, of 1993 No 12, item 53, of 1994 No 105, item 509, of 1995 No 83, item 417, No 141, item 692, of 1996 No 24, item 110, No 43, item 189, No 73, item 350, No 149, item 703, of 1997 No 43 item 270, No 54, item 348, No 75, item 471, No 102, item 643, No 117, item 752, No 121 item 769 and 770, No 133 item 882, No 139, item 934, No 140, item 940, No 141, item 944, of 1998 No 106 item 668 and No 117, item 757, of 1999 No 52, item 532 and of 2000 No 22, item 269 and 271):

is hereby amended as follows:

in Art. 4791, § 2, subparagraph 3 shall read:

"(3) falling within the jurisdiction of courts pursuant to the provisions on counteracting monopolistic practices, as well as the Energy Law and the Telecommunications Law;"

in Part One, Volume One, Title VII, Section IVa, the title of Chapter 2 shall read:

"Chapter 2

Proceedings in cases dealing with the counteracting of monopolistic practices and in matters relative to the regulation of the energy and telecommunications industries;"

in Art. 47928, § 1 shall read:

"§ 1. The decisions issued by the President of the Office for the Protection of Competition and Consumers, by the President of the Energy Regulation Authority or the regional offices of said Authority, as well as the decisions of the President of the Office of Telecommunications Regulation, within the scope set out in the Act of ... 2000 - Telecommunications Law (O.J. No, item ...), referred to in the provisions of the present Chapter as the "President", may be appealed against to the District Court of Warsaw - the Anti-monopoly Court, within two weeks of the service of the decision;"

in Art. 47931, § 1 shall read:

"§ 1. In cases dealing with the counteracting of monopolistic practices and in cases concerning regulation of the energy and telecommunications industries, the President and the party concerned shall also be parties ..."

Article 127

Art. 63 of the Code of Misdemeanours of May 20, 1971 (O.J. No 12, item 114, of 1981 No 24, item 124, of 1982 No 16, item 125, of 1983 No 6, item 35 and No 44, item 203, of 1984 No 54, item 275, of 1985 No 14, item 60 and No 23, item 100, of 1986 No 39, item 193, of 1988 No 20, item 135 and No 41, item 324, of 1989 No 34, item 180, of 1990 No 51, item

297, No 72, item 422 and No 86, item 504, of 1991 No 75, item 332 and No 91, item 408, of 1992 No 24, item 101, of 1994 No 123, item 600, of 1995 No 6, item 29, No 60, item 310, No 95, item 475, of 1997 No 54, item 349, No 60, item 369, No 85, item 539, No 98, item 602, No 104, item 661, No 106, item 677, No 111, item 724, No 123, item 779, No 133, item 884 and No 141, item 942, of 1998 No 113, item 717, of 1999 No 83, item 931 and No 101, item 1178 and of 2000 No 22, item 271)

shall read:

"Article 63

§1. Whoever performs telecommunications activities without the requisite telecommunications authorisation shall be liable to the penalty of detention, limitation of liberty or fine.

§ 2. Whoever performs telecommunications activities without the requisite registration or not conforming to such registration, or where such registration was contested by the President of the Office of Telecommunications Regulation shall be liable to a fine.

§ 3. Whoever uses or markets telecommunications accessories or equipment requiring the mandatory assessment of conformity with the essential requirements without the required conformity marking confirming compliance with the essential requirements, shall be liable to a fine.

§ 4. Whoever uses or markets electric or electronic equipment, cables or accessories, which do not meet electromagnetic compatibility requirements, shall be liable to a fine."

Article 128

In the Act on prices of February 26, 1982 (O.J. of 1988 No 27, item 195, of 1990 No 34, item 198, of 1991 No 100, item 442, of 1993 No 11, item 50, of 1994 No 111, item 536, of 1996 No 106, item 496, of 1997 No 54, item 348, No 160, item 1085, of 1998 No 106, item 668 and of 2000 No 12, item 136), Art. 25, paragraph (1), subparagraph 1 shall read:

"(1) rent for the premises leased, tariff charges for postal services, charges for telecommunications services and other charges fixed in pursuance of separate Acts."

Article 129

Art. 20c is hereby added to the Act on the Police of April 6, 1982 (O.J. No 30, item 179, of 1991 No 94, item 422 and No 107, item 461, of 1992 No 54, item 254, of 1994 No 53, item 214, of 1995 No 4, item 17, item 34, item 163 and No 104, item 515, of 1996 No 59, item 269 and No 106, item 496, of 1997 No 28, item 153, No 80, item 499, No 88, item 554, No 106, item 680, No 123, item 779 and No 141, item 943, of 1998 No 106, item 668 and of 1999 No 110, item 1255) after Art. 20b, reading:

"Article 20c

(1) The data identifying a telecommunications network subscriber or network termination points between which a call was made, as well as the data on the circumstances of the call or attempts at setting up a call between specific network termination points, as well as the circumstances and nature of the call may be disclosed to the police and processed by the police only in order to prevent or detect criminal acts.

(2) The data stipulated in paragraph (1) shall be disclosed at:

a written request from the Chief Commander of the Police or the Voivodship Commander of the Police,

a verbal demand of a police officer duly authorised by persons stipulated in subparagraph 1.

(3) The network operator shall notify the territorially competent Voivodship Commander of the Police about the disclosure of the data in the cases stipulated in paragraph (2), subparagraph 2.

(4) Telecommunications network operators shall disclose the data stipulated in paragraph (1) to police officers named in the request of the police authority.

(5) The data stipulated in paragraph (1) may be disclosed by means telecommunications networks.

(6) The Police shall transmit all materials obtained as a result of the measures taken in pursuance of 2, containing information relevant to penal proceedings, to the prosecutor of the competent territorial and material jurisdiction.

(7) All materials obtained as a result of the measures taken in pursuance of paragraph (2), other than the materials relevant for the penal proceedings, shall be promptly destroyed in the presence of a duly constituted commission and confirmed by a report."

Article 130

In Art. 10 of the Act on the State Protection Office of April 6, 1990 (O.J. of 1999 No 51, item 526, No 53, item 548 and No 110, item 1255):

paragraphs (1)a - (1)c are hereby added, reading:

"(1)a. The requirement to obtain the approval of the Prosecutor General shall not apply to:

1) obtaining information in the format of subscriber identification data or data concerning the fact, circumstances and nature of connection or attempted calls between specific telecommunications network termination points,

2) the identification of the network terminals between which a call was completed.

(1)b. At the written request of the Head of the State Protection Office or the manager of an organisational division thereof, operators shall provide the information stipulated in paragraph (1)a.

(1)c. The information and data mentioned in paragraph (1)a may be disclosed using telecommunications networks."

in paragraph (6), the words "in paragraph (1)" are replaced with the words "in paragraphs (1), (1)a and (2)";

in paragraph (7), the words "in paragraphs (1) and (2)" are replaced with the words "in

paragraphs (1), (1)a and (2)".

Article 131

The Act on Posts and Telecommunications of November 23, 1990 (O.J. of 1995 No 117 item 564, of 1996 No 106, item 496, of 1997 No 43, item 272, No 88, item 554, No 106, item 675, No 121, item 770, No 137, item 926, of 1998 No 137, item 887 and No 150, item 984 and of 1999 No 47, item 461) is hereby amended as follows:

in Art. 1, paragraph (1) shall read:

"(1). The present Act shall govern the principles of postal activities;"

in Art. 2:

a) in paragraph (1), subparagraphs 8-25 are hereby deleted;

b) in paragraph (1), subparagraph 26 is added, reading:

"State Telecommunications and Postal Inspection - shall be understood to be the President of the Office of Telecommunications Regulation.",

c) paragraph (2) and the designation of paragraph (1) are hereby deleted;

the words "Minister of Posts and Telecommunications" used in the different grammatical cases in Art. 3, paragraphs (2) and (7), in Art. 4, paragraph (2), in Art. 6, in Art. 29, paragraph (1), in Art. 43, paragraph (4), in Art. 52, paragraph (5), in Art. 71, paragraph (5) and in Art. 79 are hereby replaced with the words „minister competent for posts and telecommunications" used in the appropriate grammatical cases;

in Art. 4:

a) in paragraph (1), sub-paragraph 2 is amended to read:

"2) organisational units or divisions supervised by or subordinated to the Minister of Defence and organisations supervised by or subordinated to the minister competent for internal affairs, as well as the organisational divisions of the State Protection Office with regard to their own needs satisfied through the use of their networks",

b) sub-paragraph 4 is added reading:

"4) The minister competent for internal affairs and the minister competent for posts and telecommunications acting in communication, each within his authority, may lay down by ordinance the detailed conditions for the performance of telecommunications activities by the organisations supervised by or subordinated to the minister competent for internal affairs, with regard to the scope stipulated in paragraph (1), sub-paragraphs 2 and 4, taking account of the duties carried out by these organisations",

Art. 4 is hereby deleted;

in Art. 6, the words "or telecommunications" are hereby deleted;

Articles 7 through 28 are hereby deleted;

in Art. 29:

a) the words "The agencies of the Minister of Posts and Telecommunications shall perform the audits of telecommunications equipment and networks" in paragraph 1 are hereby replaced with the words: "Authorised audit agencies shall perform the audits."

b) in paragraph (1), subparagraphs 2-5 are hereby deleted,

c) paragraph (6) shall read:

"(6) Where it has been established that the applicable provisions on postal activities have been violated, the auditing authority shall issue a decision specifying the extent of the infringements and setting out the time limit for the remedial thereof."

d) paragraph (7) is hereby deleted,

Art. 30 is amended to read:

"Article 30

(1) The authorised audit agencies stipulated in Art. 29 shall be:

1) The President of the Office of Postal Regulation - with regard to the audits of fixed networks and telecommunications equipment, as well as postal activities,

2) The State Radio Communications Agency, attached to the minister competent for posts and telecommunications, authorised in particular to audit networks, lines and radiocommunications equipment, as well as the use of the frequencies.

(2) The minister competent for posts and telecommunications may mandate the PAR to perform other tasks and duties within the competencies of the national administration.

(3) The minister competent for posts and telecommunications shall supervise the activities of the PAR.";

In Art. 30:

a) paragraph (1), sub-paragraph 2 is hereby deleted;

b) paragraphs (2) and (3) are hereby deleted;

Articles 31 and 32 are hereby deleted;

Art. 33 is hereby deleted;

Articles 34 and 35 are hereby deleted;

Articles 36-41 are hereby deleted;

the words "Minister of Posts and Telecommunications" used in the different grammatical cases in Art. 44, paragraphs (3), (4) and (5), in Art. 47, paragraph (3), in Art. 48, in Art. 56, paragraph (2), in Art. 60, paragraph (1) and in Art. 70 are hereby replaced with the words „minister competent for posts and telecommunications" used in the appropriate grammatical cases;

the title of Chapter 4 is amended to read:

"The liability of organisations providing postal services for their non-performance or improper performance";

in Art. 57:

a) in paragraph (1), the words "or telecommunications" are hereby deleted,

b) in paragraph (2), the words "or telecommunications" are hereby deleted,

c) in paragraph (3), the words "or telecommunications" are hereby deleted,

in Art. 58, paragraph (1), the words "or telecommunications" are hereby deleted,

in Art. 59, the words "or telecommunications" are hereby deleted,

Art. 68 is hereby deleted,

in Art. 70:

a) in paragraph (1), the words "or telecommunications" are hereby deleted,

b) in paragraph (5), the words "or telecommunications" are hereby deleted,

in Art. 71, paragraph (5) is amended to read:

"(5) With regard to postal services of a universal nature, the minister competent for posts and telecommunications shall lay down by ordinance the conditions that a complaint should meet and the detailed claim settlement procedures";

Art. 72 shall be amended to read:

"Article 72

Disputes between Poczta Polska and persons using postal services of a universal nature shall be settled by the common courts of law";

Chapter 5 "Publication of orders" is hereby deleted;

Chapter 5a "Penal provisions" is hereby deleted;

Art. 76 is hereby deleted;

Art. 78 is hereby deleted;

Articles 80-85 are hereby deleted;

Articles 88-93 are hereby deleted.

Article 132

In the Act on radio and television of December 29, 1992 (O.J.of 1993 No 7, item 34, of 1995 No 66, item 335, No 142, item 701, of 1996 No 106, item 496, of 1997 No 88, item 554, No 121, item 770 and of 1999 No 90, item 999):

in Art. 26:

a) paragraph (5) shall read:

"(5) Acting in communication with the President of the Office of Telecommunications Regulation, the Chairman of the National Council shall reserve, by its decision the frequencies required for the companies to perform their statutory tasks and shall lay down the conditions of use of the frequencies. Any frequency reservations, modifications or withdrawals thereof within the scope provided for by Art. 37, paragraph (1), subparagraph 3 shall be governed by the provisions of Art. 22 and Art. 23 of the Act of ..., 2000 - "Telecommunications Law" (O.J.No ..., item ...).",

b) in paragraph (6), the words: "Minister of Posts and Telecommunications" are replaced with the words "President of the Office of Telecommunications Regulation".

c) paragraph (8) is hereby added, reading:

"(8) The provisions of Art.. 22, paragraph (4) and Art. 23, paragraph (1), subparagraph 5 of the present Act - "Telecommunications Law", shall apply, as appropriate, to the reservation of frequencies designed for digital broadcasting of programmes from earth or satellite broadcasting stations;

in Art. 34, paragraph (1), the words: "Minister of Posts and Telecommunications" are hereby replaced by "President of the Office Telecommunications Regulation",

in Art. 37:

a) paragraph (3) shall read:

"(3) Within the scope stipulated in paragraph 1, subparagraph 3 the licence shall be awarded in communication with the President of the Office of Telecommunications Regulation".

b) paragraph (3)a is hereby added, reading:

"(3)a. Where the distribution of radio or television programming should require a frequency reservation, such reservation shall be made in conjunction with the licence. Frequency reservations, modifications and withdrawals shall be governed by Art. 22 and Art. 23 of the Act - "Telecommunications Law".

c) in paragraph (4), the words: "Minister of Posts and Telecommunications" are hereby replaced with the words "President of the Office of Telecommunications Regulation",

in Art. 44, paragraph (3), subparagraph 4, the word "operation" is to be added after the words "transmission and".

Article 133

The Act of June 6, 1997 - the Code of Penal Proceedings (O.J.No 88, item 55 and of 1999 No 83, item 931) is hereby amended as follows:

in Art. 218, § 1, the words "and telecommunications" are hereby replaced with the words "or telecommunications activities";

in Art. 237, § 5, the words "and telecommunications" are hereby replaced with the words "or telecommunications activities";

Article 134

The Act on government administration departments act of September 4, 1997 (O.J.of 1999 No 82, item 928 and of 2000 No 12, item 136), is hereby amended as follows:

Art. 16 shall read:

"Article 16

The department of posts and telecommunications shall include matters related to posts and telecommunications;"

in Art. 33a, paragraph (1), sub-paragraph 9a is hereby added, reading:

"(9)a Office of Telecommunications Regulation".

Section 3

Transitory, Adjustment and Final Provisions

Article 135

(1) Until December 31, 2002 it shall be prohibited to:

provide international telephony service,

provide international services using networks operated by foreign undertakings or companies with foreign interest.

(2) The provisions of paragraph (1), subparagraph 2 shall not apply to the company Telekomunikacja Polska S.A. hereinafter referred to as "TP S.A.", nor to its legal successors or organisations formed in the aftermath of its division or transformation, as appropriate for their respective scopes of activity and service areas.

(2)a The provisions of paragraph (1), subparagraph 2 shall not apply to services, which are not international telephony services, provided with the use of radio equipment assuring radiocommunications with a range extending beyond the borders of the Republic of Poland.

3. The Council of Ministers may waive by ordinance, in part or in whole the restrictions stipulated in paragraph (1), guided by the desire to develop a competitive market of telecommunications services, bearing in mind that restrictions should be lifted gradually and take account of the necessary protection of Polish interests.

Article 136

(1) The OTR is hereby established.

(2) The President of the Council of Ministers shall nominate the President of the OTR within 30 days of the publication of the present Act.

3. The minister competent for finance is hereby authorised to make the requisite amendments in the state budget for the year 2000, assuring the financing of the OTR to such extent as required to implement the provisions of the present Act.

Article 137

(1) The State Telecommunications and Postal Inspection, hereinafter referred to as "PITiP" is hereby liquidated.

(2) PITiP personnel shall become OTR employees.

3. PITiP assets shall be become OTR assets.

4. PITiP receivables and liabilities shall become OTR receivables and liabilities.

Article 138

(1) The National Radiocommunications Agency is hereby liquidated.

(2) PARTN personnel shall become OTR personnel.

3. PAR assets shall become OTR assets.

Article 139

(1) OTR personnel remaining in the employ of the PITiP in civil service positions prior to its liquidation:

shall by force of the law become civil servants,

shall retain their contracts of employment concluded on the basis of nomination on the principles specified in the Act of September, 1982 on the employees of the government administration (O.J.No 31, item 214, of 1984 No 35, item 187, of 1988 No 19, item 132, of 1989 No 4, item 24, No 34, item 178 and 182, of 1990 No 20, item 121, of 1991 No 55, item 234, No 88, item 400 and No 95, item 425, of 1992 No 54, item 254 and No 90, item 451, of 1994 No 136, item 704, of 1995 No 132, item 640, of 1996 No 89, item 402 and No 106, item 496, of 1997 No 98, item 604, No 133, item 882 and 883 and No 141, item 943, of 1998 No 131, item 860, No 155, item 1016 and No 162, item 1118 and of 1999 No 49, item 483 and No 70, item 778), but only until December 31, 2003, unless these contracts should be earlier transformed, terminated or they should expire as provided for in the Law of

December 18, 1998 on civil service (O.J. of 1999 No 49, item 483, No 70, item 778 and No 110, item 1255).

(2) Personnel stipulated in paragraph (1), employed on the basis of nomination on the principles stipulated in the law on the employees of the government administration shall be governed by the provisions of Art. 10, paragraphs (1)a, (1)b and (5), Art. 13-16 and Art. 27, paragraph (3) of said Act.

3. Persons remaining in the employ of the PITiP prior to its liquidation, revoked from their positions in government administration or from other managerial positions in the government administration, who had been civil servants appointed in accordance with the Act on the employees of the government administration before their appointment to these positions, shall become civil servants governed by the provisions of Art. 45, paragraph (2) of the Act on the employees of the government administration, as applicable.

Article 140

OTR employees employed by the State Radiocommunications Agency as civil servants, prior to the liquidation of the State Radiocommunications Agency shall be governed by the provisions of Art. 139, as applicable.

Article 141

(1) The Minister competent for Telecommunications shall designate a receiver for the PITiP. The receiver will draw up the closing balance of the PITiP.

(2) The Minister competent for Telecommunications shall designate a receiver for the PAR. The receiver will draw up the closing balance of the PAR.

Article 142

(1) Without prejudice to the provisions of paragraphs (2) and (3) of the present Act:

Documents issued in pursuance of the Law on Posts and Telecommunications:

licences for the provision of telecommunications services including authorisations for network deployment and operation, stipulated in Art. 3, paragraph (1), shall by force of the law become authorisations within the definition of the present Act,

authorisations for the deployment and use of equipment and networks for the collective reception by cable of radio and television programming shall by force of the law become authorisations within the definition of the present Act,

authorisations for the deployment and use of transmitting and transmitting-receiving radio equipment awarded in conjunction with frequency assignments for such radio equipment shall become permits by force of the law, within the definition of the present Act,

authorisations for the deployment and use of radiocommunications transmitting or transmitting-receiving radio equipment used for the broadcasting of radio or television programming shall by force of the law become permits within the definition of the present Act.

frequency assignments awarded in licences and authorisations stipulated in paragraph (1),

subparagraph 1, letters [a] and [b] and in decisions on frequency assignments shall become frequency reservations by force of the law.

frequency assignments awarded in licences for the broadcasting of television or radio programming, awarded by the Chairman of the National Council for Radio and Television before the entry into force of the present Act shall become frequency reservations by force of the law.

(2) The provisions of paragraph (1), subparagraph 1 shall not apply to licences and authorisations awarded in pursuance of the Act on Posts and Telecommunications relative to the conduct of activities stipulated in Art. 4 and Art. 5. These rights shall become void by force of the law.

3. The provisions of paragraph (1) above shall not apply to the provisions of licences, authorisations and frequency reservations stipulated in paragraph (1), where exercising such licences, authorisations or frequency reservations would constitute a violation of the provisions of the present Act. The provisions of Art. 162 of the Code of Administrative Proceedings shall govern the confirmation of the expiry of these provisions, as applicable.

4. The conditions for the performance of telecommunications activities, as well as for the use of radiocommunications equipment stipulated in licences, authorisations or frequency assignments stipulated in paragraph (1), with the exception of those stipulated in paragraphs (2) and (3), shall remain unchanged.

5. Licences for the provision of telecommunications services, authorisations and frequency assignments other than stipulated in paragraph (1) shall become void by force of the law.

6. Entities, which had obtained rights expiring for reasons stipulated in paragraphs (2), (3) or (5) above may continue their telecommunications activities within their current scope, on the principles stipulated in the present Act:

where the telecommunications activities performed by an organisation require an authorisation, permit or a frequency reservation - until their applications for the adaptation of their authorisations to the provisions of the present Act have been considered by the President of the OTR or until the award of the appropriate authorisations, subject to such application being filed within 12 months of the entry into force of the present Act.

where the telecommunications activities performed by an organisation require registration - subject to the registration of telecommunications activities within 3 months of the entry of the present Act into force and if the President of the OTR does not exercise his/her veto stipulated in Art. 14, paragraph (2).

7. The President of the OTR shall be the competent authority for the adaptation and award of authorisations stipulated in paragraph (6), subparagraph 1.

Article 143

(1) Type-approval certificates for telecommunications equipment awarded in pursuance of the Act on Posts and Telecommunications shall:

remain valid for telecommunications equipment for which the assessment of compliance with the essential requirements is mandatory,

shall expire by force of the law for the remaining telecommunications equipment.

(2) Telecommunications equipment for which type-approval certificates have expired may be used in accordance with the provisions of the present Act.

3. Telecommunications equipment, with the exception of radio equipment, deployed in accordance with the law prior to the entry in force of the Act stipulated in Art. 131, may be used without the requisite type-approval certificate until the end of its useful technical life.

Article 144

(1) Where such authorisation is required, TP S.A. shall file with the President of the OTR, within 3 months of the publication of the present Act a written application for an authorisation for the operation of all public telephone networks and public networks intended for the broadcasting of radio or television signals operated by TP S.A. at the time of the filing of the application.

(2) TP S.A. shall attach the lists of public networks stipulated in paragraph 1 to its application and the documents confirming the possession of authorisations for the use of frequency resources, numbering or subscriber identification signs required for the provision of the telecommunications services for which the application is filed.

3. The provisions of paragraphs (1) and (2) shall also apply to the legal successors of TP S.A. or organisations formed in the aftermath of its division or transformation, as appropriate for their respective scopes of activity and service areas.

4. The minister competent for posts and telecommunications shall set forth by ordinance within 30 days of the publication of the present Act:

the specimen application stipulated in paragraph (1),

the format of the lists or types of documents stipulated in paragraph (2).

Article 145

(1) Within 2 months of the entry into force of the present Act TP S.A. shall file with the President of the OTR its written application for permits for the use of radio equipment operated by the company and not covered by the permits held at the time of the filing of the application.

(2) TP S.A. shall attach the lists of equipment specified in paragraph (1) to its permit application.

Article 146

(1) The President of the OTR will award an authorisation to TP S.A. for the operation of public networks stipulated in Art. 144, paragraph (1) by TP S.A. for a period of 25 years, within 2 months of the date of entry into force of the present Act.

(2) In the event TP S.A. should fail to file the application stipulated in Art. 144 within the prescribed time limit, the President of the OTR shall issue to TP S.A. within 2 months of the date of the entry into force of the present Act, an authorisation for the operation by TP S.A. of fixed public telephone networks operated by TP S.A. at the time of the entry into force of

the present Act, only for the provision of domestic and international telephone services in these networks, for a period of 25 years.

3. Permits stipulated in paragraph (1) or paragraph (2) shall be awarded with the corresponding frequency reservations, numbering assignments and assignments of the requisite subscriber identification signs, within the scope required for the exercise of the licence.

4. No fees shall be charged for licences stipulated in paragraphs (1) or (2).

Article 147

(1) Within 12 months of the date of entry into force of the present Act the President of the OTR will award a permit to TP S.A. for the use of transmitting or transmitting-receiving radio equipment for a period of up to 10 years, corresponding in its scope to TP S.A.'s application filed within the time limit stipulated in Art. 145, paragraph (1).

(2) Permits stipulated in paragraph (1) shall be awarded in conjunction with the appropriate identification signals or calling signs.

Article 148

(1) Until the authorisations stipulated in Art. 146 become final, TP S.A. shall retain its rights to perform telecommunications activities, acquired in pursuance of the Act on Posts and Telecommunications, taking account of the provisions of the agreements concluded with TP S.A. by the minister competent for posts and telecommunications in pursuance of the Act on posts and telecommunications.

(2) Until the permits stipulated in Art. 147 become final, TP S.A. shall only have the authorisations to use radio equipment, which it obtained under the Act on posts and telecommunications.

3. TP S.A. shall apply for rights other than stipulated in Art. 146 and Art. 147-149 on general principles.

4. TP S.A. will carry out its telecommunications activities, which do not require an authorisation on the general principles.

Article 149

The provisions of Art. 145-148 shall also apply to the legal successors of TP S.A. or organisations formed in the aftermath of its division or transformation, as appropriate for their respective scopes of activity and service areas.

Article 150

(1) Executive provisions issued in pursuance of the Act stipulated in Art. 131 shall remain in force until the promulgation of the ordinances stipulated in the present Act, but not longer than for 2 years following the date of the entry into force of the present Act, except where contradictory to the provisions of the present Act.

(2) The provisions of the present Act, with the exception of Art. 124 and Art. 125 shall govern matters instituted before the entry into force of the present Act, which have not

settled been by a final decision by the date of its entry into force.

Article 151

The present Act shall enter into force as of January 1, 2001 with the exception of the provisions of:

Art. 131, subparagraphs 3 and 4, Art. 136, paragraph (2), Art. 141 and Art. 144, which shall enter into force as of the day of the publication of the present Act,

Art. 109 paragraphs (2)-(9), Art. 112, paragraphs (1)-(4) and (8), Art. 113, Art. 131, subparagraph 2, letter [b], subparagraph 8, letter [a], subparagraphs 9 and 12, Art. 136, paragraphs (1) and (3), Art. 137 as well as Art. 139, which shall enter into force within 30 days after the publication of the present Act,

Art. 9, Art. 25, paragraph (1), Art. 32 and Art. 112, paragraphs (5)-(7), which shall enter into force as of January 1, 2002.

Art. 59, paragraph (1), which shall enter into force as of January 1, 2004.