

The National Council of the Slovak Republic

Act No. 610

of 3 December 2003

**on Electronic Communications as amended by Act No. 716/2004 Coll., Act No. 69/2005 Coll.
and Act No. 117/2006 Coll.**

PART ONE BASIC PROVISIONS

Section 1 Subject and Purpose of the Act

(1) This Act governs the conditions for provision of electronic communications networks and electronic communications services, conditions for using of radio facilities, state regulation of electronic communications (hereinafter as “regulation”), rights and obligations of undertaking and users of electronic communications networks and electronic communications services, protection of these networks and services, effective use of the frequency spectrum and numbers, rights and obligations to real estates of third parties, protection of privacy and data and powers of state administration authorities in the sector of electronic communications.

(2) This Act shall not apply to the content of services provided through electronic communications networks^{1a)} unless the Act states otherwise.

(3) The purpose of this Act is to create conditions for development of competition in the field of electronic communications in the territory of Slovak Republic and remove barriers impeding the development, create conditions for establishment and development of trans-European electronic communications networks and interoperability of pan-European services, achieve effective economic competition (hereinafter as “competition”) in provision of electronic communications networks and electronic communications services based on the principle of technological neutrality and promote interests of electronic communications services users.

(4) This Act transposes the legal acts of the European Communities listed in Annex No. 1.

Section 2 Electronic Communications

(1) Electronic communications ensure the exchange or transmission of information, between a finite number of users realised via electronic communications networks. Electronic communications do not include information conveyed as part of television and radio broadcasting to the public over an electronic communications network, except for information related to the identifiable user receiving the information.

(2) Electronic communications are installation, operation and provision of electronic communications facilities, electronic communications networks and electronic communications services.

^{1a)} E.g., Act No. 22/2004 Coll. on Electronic Commerce and on Amendment of Act No. 128/2002 Coll. on State Supervision of Inner Market in Matters of Consumer’s Protection and on Amendment of Other Acts as amended by Act No. 284/2002 Coll. as amended by Act No. 160/2005 Coll., Act No. 308/2000 Coll. on Broadcasting and Retransmission and on Amendment of Act No. 195/2000 Coll. on Telecommunications as amended by later regulations.

Section 3 Electronic Communications Facilities

- (1) Telecommunications facility means a technical facility for emission, transmission, routing, reception, switching or processing of signals and information in the form of pictures, sound or data (hereinafter as “signal”) by wire, radio, optical or other electromagnetic means, as well as associated facilities.
- (2) Radio facility means a telecommunications facility or a technical part thereof capable of communication by means of the emission, reception or emission and reception of radio waves in the frequency spectrum allocated to terrestrial or space radiocommunications.
- (3) Terminal equipment means a telecommunications facility or a technical part thereof which enables communication and is intended to be connected directly or indirectly to network termination points.
- (4) Associated facilities mean technical facilities and other equipment associated with a network, which enable or support the provision of services via that network or service. They include conditional access systems and electronic programme guides.
- (5) Harmful interference means interference which endangers the functioning of a radionavigation service or of other safety services, or otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service defined in the international agreement¹⁾ binding upon the Slovak Republic and operated in accordance hereto.
- (6) Public pay telephone means a publicly available telephone, for the use of which may be paid especially by coins, credit cards, debit cards or pre-payment cards, including cards for use with dialling codes.
- (7) Radio waves means electromagnetic waves of the frequency from 9 kHz to 3 000 GHz, propagated in space without artificial guide.

Section 4 Electronic Communications Networks

- (1) Electronic communications network (hereinafter as “network”) means a functionally interconnected transmission systems and, where applicable, switching and routing equipment, as well as other resources which permit the conveyance of signals by wire, radio, optical or by other electromagnetic means, including satellite networks, circuit- and packet-switched fixed networks, including Internet and mobile terrestrial networks, power distribution networks to the extent that they are used for transmission of signals, networks for radio and television broadcasting and cable distribution systems, irrespective of the type of information conveyed.
- (2) Public network is fully or mostly used for provision of **public** electronic communications services.
- (3) Public telephone network is used for provision of **public** telephone services; it allows for transmission of voice communication between network termination points or other forms of communication such as facsimile or data transmission.
- (4) Interface means:
- a) a network termination point which is a physical point at which a user is provided with connection to public network and, in case of networks including switching or routing, this point is defined by a specific network address, which can relate to the users’ telephone number, and its technical specifications,
 - b) an air interface specifying the radio path between radio facilities, and its technical specifications,
 - c) an interface for interconnection of networks or connection of special networks, and its technical specifications, or
 - d) an application program interface, which includes software interfaces between applications provided by operators of radio and television broadcasting or service providers and the resources in digital television equipment designed for digital television and radio services, and its technical specifications.
- (5) Provision of network means the establishment, operation, control and making available of such a network.

¹⁾ Decree of the Ministry of Foreign Affairs No. 190/1968 Coll. on International Convention on Telecommunications, Montreux 1965.

(6) Geographic number means an assigned number from the national numbering plan, where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point.

(7) Non-geographic number means an assigned number from the national numbering plan where no part of its structure contains geographic significance; it includes, **in particular** mobile, freephone and premium rate numbers.

(8) Undertaking, for the purposes of this Act, means every person that is authorised to provide network, service or network and service in the field of electronic communications, regardless of the legal form and way of financing.

(9) Access means the making available of facilities, electronic communications services or facilities and electronic communications services to another undertaking in order to provide electronic communications services. It includes mainly:

- a) access to the local loop and to facilities and services necessary to provide services over the local loop,
- b) access to fixed and mobile networks, in particular to roaming service,
- c) access to **number translation** or to systems offering equivalent functionality,
- d) access to relevant software systems including operational support systems,
- e) access to infrastructure including buildings, premises and parts of network lines,
- f) access to conditional access systems for digital television services,
- g) access to virtual network services.

(10) Interconnection means the physical and logical linking of public networks used by the same or a different undertaking enabling the users of the network of one undertaking to communicate with users of the same or another undertaking, or enabling the access to electronic communications services provided by another undertaking. These services may be provided by undertaking or by third party that have access to the public network. Interconnection is a specific type of access between providers of public networks.

(11) Local loop means a physical link connecting the network termination point at the subscriber's premises to the main distribution frame or equivalent facility in the fixed public telephone network.

(12) Unbundled access to the local loop means full unbundled access or shared access to the metallic twisted pair of the local loop without the change in the ownership of the local loop.

(13) Full unbundled access means access to the metallic twisted pair of the local loop or local sub-loop, which shall entitle another undertaking to use the full frequency spectrum of the metallic twisted pair of the local loop. Local sub-loop is a part of the local loop connecting the network termination point at the subscriber's premises to a specified access point of the local loop.

(14) Shared access to the metallic twisted pair of the local loop means access to the local loop or local sub-loop, which entitles another undertaking to use the part of frequency spectrum which is not used for the telephone service while the voice band frequency spectrum remains available to the undertaking with significant market power on the relevant market.

(15) Lines of networks (hereinafter as "lines") mean a part of the network. Lines shall be **line and engineering constructions of electronic communications networks** and public technical infrastructure²⁾, particularly aerial and underground lines, long distance and local transmission systems, cable distribution systems and radio links, including their accessories and associated facilities such as distributors, amplifiers, masts, carriers, supporting and demarcation points, cable ducts, cable chambers and conduits.

(16) Supporting point of the aerial line means a construction bearing or supporting wires or cables.

(17) Demarcation points of the underground line means a sign, milepost or post determining the position of cable sets, cable crossings with roads, railways, water courses, positional changes of cable routes in municipalities or in free terrain.

²⁾ Section 43a, Subsection 3, Letters h) and i), **Section 55, Subsection 2** and Section 139a, Subsection 10 of Act No. 50/1976 on Territorial Planning and Construction Order (Construction Law) as amended by Act No. 237/2000 Coll.

Section 5 Electronics Communications Services

(1) Electronic communications service (hereinafter as "service") means a service usually provided for remuneration which consists wholly or mainly in the conveyance of signals on networks, including telecommunications services and transmission services in networks used for radio and television broadcasting. The service is not the provision of content or **providing, or** exercising editorial control over the content transmitted using networks and services; it does not include information society services³⁾, which do not consist wholly or mainly in the conveyance of signals on networks.

(2) **Public service means a publicly available service for use of which any interested person may apply.** Public telephone service means a **public** service for originating and receiving national and international calls and for access to emergency calls through one or more numbers from the national or international numbering plan.

(3) Call means an electronic communication connection established by means of a public telephone service allowing two-way communication in real time.

(4) Value added service means a service, which requires the processing of traffic data or location data other than traffic data necessary for the transmission of a communication or the billing.

(5) Interoperability of services means such setting of transmission parameters of a service, associated facilities and interfaces that enables communication between end-users or between an end-user and the undertaking providing the service through technologically different networks.

(6) User means a natural person or legal entity that uses or requires provision of a publicly available service. For the purposes of this Act, a subscriber and end-user is also considered to be a user, unless stated otherwise hereinafter.

(7) End-user means a person that uses or requires a publicly available service and does not provide this service and does not provide another services through this service. The end-user is a consumer⁴⁾ and in case of radio and television programme services also a listener and viewer.

(8) Subscriber means such end-user that concluded a Contract on Connection with an undertaking providing public services.

PART TWO REGULATION OF ELECTRONIC COMMUNICATIONS

CHAPTER ONE POWERS OF STATE ADMINISTRATION AUTHORITIES IN THE FIELD OF ELECTRONIC COMMUNICATIONS

Section 6

(1) State administration authorities in the field of electronic communications are as follows:

- a) Ministry of Transport, Posts and Telecommunications of the Slovak Republic (hereinafter as the "Ministry"),
- b) Telecommunications Office of the Slovak Republic (hereinafter as the "Office").

(2) The Ministry:

- a) elaborates proposals of the national policy in electronic communications and submits them to the Government of the Slovak Republic (hereinafter as the "Government") for approval,
- b) elaborates a proposal of the national table of frequency allocations and submits it to the Government for approval,
- c) provides for international relations in the field of electronic communications at the level of the European Union, international governmental organisations and international non-governmental organisations.

(3) The Office is the national regulatory authority and pricing authority⁵⁾ in the sector of electronic communications which, pursuant to this Act:

³⁾ Decree of the Government of the Slovak Republic No. 453/2002 Coll. on Procedures at provision of information in the area of technical regulations and technical standards.

⁴⁾ Section 2 of Act No. 634/1992 Coll. on Consumer Protection.

- a) performs regulation,
- b) provides for international relations in the field of electronic communications at the level of regulatory authorities,
- c) co-operates with the Ministry in elaboration of the proposal of the national table of frequency allocations and performs management of the frequency spectrum,
- d) protects the interests of end-users with regard to quality and prices of services,
- e) fulfils obligations supporting competition, development of common market of the European Union, interests of all persons of the European Union member states in the territory of the Slovak Republic, access to networks, interoperability of networks and services and protects freedom of carrier selection applying technical standards⁶⁾,
- f) issues generally binding legal regulations within the scope of this Act,
- g) publishes the Journal of the Telecommunications Office of the Slovak Republic (hereinafter as “Journal“),
- h) provides for its information obligations towards the National Council of the Slovak Republic (hereinafter as “the National Council”) and the European Commission, **to which the Office also notifies information under its authority**,
- i) sets payments,
- j) leads out-of-court dispute resolution,
- k) provides information to end-users with respect to services, performs users researches, publishes them and uses them in its activities,
- l) fulfils tasks related to limitation of proprietary rights to real estates in respect of using of real estates for the purposes of service provision and tasks related to limitation of proprietary rights to movable assets by limitation or ban on using transmitting telecommunications facilities and circuits in times of war or belligerency⁷⁾,
- m) executes supervision and imposes sanctions,
- n) executes other activities **under special regulations^{7a)}**.

(4) The Office shall be obliged to perform all its activities and publish its decisions in line with the principles of efficiency, objectivity, transparency, non-discrimination, adequacy and legitimacy. In execution of its activities the Office may use also services of another persons. The Office shall publish its decisions, generally binding legal regulations and information that contribute to open and functional competitive market in the Journal and, for information purposes, on the Internet, while it provides for data protection.

(5) Payments pursuant to Subsection 3, Letter i) are administrative charges imposed by the Office to undertakings providing networks, services or networks and services on the basis of general authorisation and fees for the right of use of numbers or frequencies imposed by the Office on the basis of individual authorisation for use of numbers or individual authorisation for use of frequencies. The amount of administrative charges under Section 13 Subsection 2 Letter e) shall not exceed the amount of essential costs of the Office on administration, control of rights and obligations resulting from these authorisations and obligations pursuant to Sections 18 to 27. When stipulating the amount of payments for individual undertakings, the Office shall act in accordance with Subsection 4 and imposes the payments with regard to by minimising excessive costs. Payments shall include also costs of the Office on international co-operation and harmonisation, market analysis, monitoring and control of fulfilment of conditions and other controls over the market. The payments shall be collected by the Office and shall be an income of the state budget.

(6) The Office shall publish the way and method of specifying the administrative charges, **the annual overview of Office’s costs for administration and supervision of rights and obligations under Sections 18 to 28 and rights and obligations imposed on the basis of the authorisation, and the total amount of collected administrative charges.**

Section 7

(1) The Office is a budgetary organisation⁸⁾ with registered seat in Bratislava. The Office can establish permanent or temporary workplaces outside its registered seat.

(2) The Office is presided by a Chairman who is a statutory body and is elected and recalled by the National Council upon a proposal of the Government.

⁵⁾ Section 4, Subsection 1 of the Act of the National Council of the Slovak Republic No. 18/1996 Coll. on Prices as amended by Act No. 196/2000 Coll.

⁶⁾ Section 5 of Act No. 264/1999 Coll. on Technical Requirements for products and on conformity assessment and on change and amendment of some acts in the wording of the Act No. 436/2001 Coll.

⁷⁾ Art. 2, Clause 3 and Art. 3, Clause 3 of Constitutional Act No. 227/2002 Coll. on Security of the State at the Time of War, Belligerency, Extraordinary Situation and Emergency Situation.

^{7a)} **E.g. Section 68 of Act No. 308/2000 Coll. on Broadcasting and Retransmission.**

⁸⁾ Section 21, Subsection 4, Letter a) of Act of the National Council of the Slovak Republic No. 303/1995 Coll. on Budget Rules as amended.

(3) The Chairman, in time of his absence, is deputised by the Vice-Chairman of the Office. Besides that, the Vice-Chairman fulfils tasks assigned by the Chairman. The Vice-Chairman is appointed and recalled by the Government.

(4) The term of office of the Chairman and of the Vice-Chairman is six years. The same person may perform the office of the Chairman or Vice-Chairman of the Office for a maximum of two consecutive terms of office.

(5) The Government determines the Chairman's Salary and other appurtenances according to the special regulation⁹⁾.

(6) During their term of office the Chairman and the Vice-Chairman shall not:

- a) hold any position in a political party or political movement, or act for their benefit,
- b) hold any position in any other state authority or in a body of a legal entity established by the law as a public institution,
- c) be an employee, an associate or agent of legal entity, member of its statutory body, controlling body, supervisory body, or an employee of a natural person, neither have share on basic property nor have share on voting rights of these persons, neither act for their benefit or detriment, provided these persons are network operator, service provider or network operator and service provider,
- d) undertake or have other gainful employment.

(7) The tenure of the Chairman and the Vice-Chairman of the Office shall be terminated by:

- a) expiration of their terms of office,
- b) resigning from their positions,
- c) recalling from their position,
- d) death.

(8) The Chairman may resign from his position by a written notification to the Chairman of the National Council and the Vice-Chairman may resign from his position by a written notification to the Prime Minister. The terms of office of the Chairman shall terminate upon the delivery of the notification on resignation. The terms of office of the Vice-Chairman shall terminate upon the delivery of the notification on resignation.

(9) The National Council shall recall the Chairman and the Government shall recall the Vice-Chairman, if:

- a) any of the events stated in Subsection 6 took place,
- b) they were lawfully sentenced for an intentional crime, or crime committed due to negligence and directly related with performance of their positions,
- c) they were deprived of their capacity to perform legal acts or if their capacity was limited,
- d) they have not performed their position for a period of at least six consecutive months.

(10) The National Council may recall the Chairman and the Government may recall the Vice-Chairman, if the Office does not fulfil tasks in line with this Act.

Section 8

Co-operation of the Office with Other Authorities, Offices and Operators

(1) The Office shall co-operate mainly:

- a) with the Council for Broadcasting and Retransmission in the field of radio and television broadcasting and retransmission,
- b) with the Antimonopoly Office of the Slovak Republic in issues related to determination of relevant markets (Section 15), analysis of relevant markets in the field of electronic communications (Section 16) and determination of undertaking with significant market power on the relevant market in the field of electronic communications (Section 17),
- c) with operators of special networks in co-ordination of use of frequency spectrum,
- d) with the Slovak Trade Inspection in performance of state supervision over electronic communications,
- e) with the European Commission and national regulatory authorities of European Union member states.

(2) When applying regulatory responsibility of the Office defined by this Act and powers of the Antimonopoly Office of the Slovak Republic governed by a special regulation, the Offices shall exchange information and supporting materials.

⁹⁾ Act No. 312/2001 Coll. on State service and on change and amendment of some acts as amended.

Section 9 Information of the Office

The Office shall, upon a **reasoned** request of the European Commission, provide the European Commission with the information it requires to carry out its tasks. In case the Office provides the European Commission with information previously provided to the Office by an undertaking at the request of the Office, the Office shall inform the undertaking thereof. Information collected by the Office shall be publicly available, except for information, which is subject to business confidentiality¹⁰⁾, **or classified information.**

Section 10 Consultations

(1) Consultations are a mutual exchange of information, standpoints and preliminary negotiations of the Office with **parties involved, in particular** undertakings, national regulatory authorities or the European Commission before proceedings and deciding on measures that will have significant impact on the relevant market **or in cases that will be stated by this Act.**

(2) The Office, before the start of proceedings, shall consult its proposed measure in the matter, which will have a significant impact on the relevant market, and it shall provide the **parties involved** at least one month following its publication, for making its statement. The draft measure include in particular definition of the market, findings about significant influence on the relevant market together with designation of an undertaking as a significant market power on that market, imposition, amendment or withdrawal of obligations pursuant to Sections 18 to 24 and 27 and justification of mentioned facts. The Office shall consider the statement of the concerned undertaking in the maximum possible extent.

(3) In case the proposal pursuant to Subsection 2 can have an impact on trade between the European Union member states, the Office shall distribute this proposal with its justification to the European Commission and all national regulatory authorities in the member states of the EU, if it is the case of:

- a) definition of the relevant markets,
- b) procedures related to analysis of the relevant market,
- c) obligations of access to networks and interconnection of networks,
- d) obligations determined under Sections 23, 24, 27 and 28.**

(4) The Office shall consider the statement of the European Commission and national regulatory authorities in the maximum possible extent. After reviewing of the statements, the Office shall start the proceedings or conclude the consultations. The Office shall send the issued decision to the European Commission.

(5) If the decision has an impact on the trade between the European Union member states, and the European Commission in its statement thereto expresses a view that its issuance would be an obstacle for mutual trade within the European Union or expresses serious doubts as to its compatibility with the European Union' legislation, especially with the purpose defined in Section 1, Subsection 2, the Office shall postpone issuance of its decision for two months. In case the European Commission requests the withdrawal of the proposal stating reasons within this period, the Office shall not issue the decision and stop the proceedings.

(6) In exceptional circumstances, where the Office considers that there is an urgent need to act, by way of derogation from the procedure set out in Subsections 2 to 5, in order to safeguard competition and protect the interests of users, it shall immediately issue a provisional measure¹¹⁾ or a decision pursuant to Section 15, Subsection 2. The Office shall without delay send this measure or decision, with a rationale, to the European Commission and all national regulatory authorities. **Before issuing the decision in the matter, in order to determine the justification of this preliminary measure, the Office shall act under Subsections 2 to 5. In the course of consultations, the Office shall suspend the proceedings.**

(7) **Before the start of consultations, the Office shall publish the subject, scope and consultations procedure on Internet. After concluding the consultations, the Office shall publish the results and a report on the procedure under Subsections 2 to 6.**

(8) The Office is the only information point through which all on-going consultations can be entered.

¹⁰⁾ Section 17 to 20 Commercial Code.

¹¹⁾ Section 43 of Act No. 71/1967 Coll. on Administrative Proceedings (Administrative Code).

Section 11 Regulation of Electronic Communications

(1) Regulation of electronic communications shall be:

- a) setting conditions for provision of networks and services (Sections 12 to 14),
- b) regulation of competition on the relevant market in the field of electronic communications (Sections 15 to 28),
- c) administration of numbers and frequencies (Sections 29 to 36),
- d) regulation of prices (Sections 22, 23, 26 and 27),
- e) performance of state supervision over the electronic communications (hereinafter as “supervision”) (Sections 37 and 38).

(2) In regulation, the Office shall take into account recommendations and guidelines of the European Commission, including technical standards and specifications for networks and services whose list is published by the European Commission. In regulation, the Office must consider technological neutrality of regulation, which neither imposes nor discriminates using of a particular type of technology.

(3) In regulation, the Office shall provide for that there will be no distortion or restriction of competition and discrimination of undertakings, support effective investments into a quality and modern infrastructure, take heed of keeping integrity and security of public networks. The Office shall establish such conditions that all end-users have access to universal service and heeds the maximum benefit of users, in particular handicapped users, in terms of a possibility of service choice, price, and quality.

CHAPTER TWO AUTHORISATION TO PROVIDE NETWORKS AND SERVICES

Section 12

(1) Provision of networks, services or networks and services can be performed only on the basis of a general authorisation. **The Office shall grant the undertaking an individual authorisation for use of numbers pursuant to Section 31 or an individual authorisation for use of frequencies pursuant to Section 32, if it is necessary to grant an individual right of use for numbers or frequencies for provision of network, service or network and service.**

(2) An authorisation pursuant to Subsection 1 shall not be necessary for special networks except for networks or parts of networks established by radio facilities on frequencies which have not been allocated for this purpose in the national table of frequency allocations.

Section 13 General Authorisation

(1) General authorisation defines rights and conditions for provision of networks, services and operation of radio facilities that can apply to all or to some of them. The obligations imposed pursuant to Sections 18 to 27 and Sections 50 to 54 shall not be affected thereby.

(2) The conditions included in the general authorisation may relate only to the following obligations:

- a) interoperability of services and interconnection of networks,
- b) accessibility of numbers from the national numbering plan for end-users,
- c) environment and territorial planning, as well as requirements and conditions related to the granting of access or use of third party real estates and conditions related to sharing of facilities and co-location, including possible financial or technical guarantees necessary to ensure proper execution of infrastructure works,
- d) financial contributions to the covering of net costs arising at provision of the universal service,
- e) administrative charges,
- f) protection of personal data and privacy that are specific to electronic communications sector,
- g) protection of end-users including conditions specific to the electronic communications sector,
- h) restriction of transmission of signal with illegal content,
- i) information provided by undertakings to the Office upon its request and related to the notification obligation and obligation to provide information in accordance with Section 38,

- j) provision of a facility for tapping and recording of traffic in networks for a state body or body acting in criminal proceedings¹²⁾ and its connection to network at the costs of the undertaking; the technical specification of the tapping facility shall be approved by the Office,
- k) preparation of networks and services for crisis and extraordinary events¹³⁾ for ensuring communication between the crisis management bodies, rescue units of the integrated emergency system and citizens by public broadcasting,
- l) measures for limitation of exposure of persons to electromagnetic fields caused by networks and their facilities as sources of electromagnetic radiation,
- m) access and criteria of imposing obligations pursuant to Sections 18 to 28 for cases when the competition on the relevant market in the field of electronic communications is not efficient,
- n) maintenance of the integrity and infrangibility of public networks in connection with conditions to prevent the electromagnetic interference between networks, services or networks and services pursuant to special regulations¹⁴⁾
- o) protection of public networks against unauthorised access,
- p) efficient use of the frequency spectrum and avoidance of harmful interference related to the use of frequencies, where their use is not subject to an individual authorisation,
- r) ensuring compliance with technical standards and technical specifications for networks and services.

(3) Conditions listed in the general authorisation shall be objectively justified in relation to the network or service concerned, non-discriminatory, proportionate and transparent.

(4) The Office shall publish a draft of general authorisation at least 60 days prior the day when it is expected to be published, together with a call for submission of comments and information where and until when comments can be raised; this period shall not be less than 30 days after publishing of the draft. **The Office shall evaluate and publish the submitted comments.**

(5) The general authorisation shall come into effect on the day of its publishing unless a later effective date is stated therein.

(6) Subsections 4 and 5 shall apply appropriately also to a change or cancellation of the general authorisation.

(7) An undertaking shall have the right to provide networks, services or networks and services, if it meets the conditions of the authorisation and fulfilled the notification obligation pursuant to Section 14. For the capability to provide networks, services or networks and services the date of receiving a sufficient and full notification pursuant to Section 14, Subsections 2 and 3 shall be decisive.

Section 14 Notification Obligation

(1) Undertaking intending to provide networks, services or networks and services shall be obliged to notify the Office of this fact prior to initiation of the provision, if the Office stipulates so in the general authorisation. The notification obligation also applies to the changes or cancellation of the provision of the network, service or network and service **and to the alteration of data pursuant to Subsection 2.**

(2) The notification pursuant to Subsection 1 shall be made in writing and contains the following data:

¹²⁾ Section 2, Subsection 2 of Act No. 166/2003 Coll. on Protection of Privacy against Illegal Use of Information and Technical Means and on Change and Amendment of Some Acts (on Protection against Interception) and Section 12, Subsection 1 of Act No. 141/1961 Coll., Criminal Code.

¹³⁾ Art. 1, Subsection 4 of Constitutional Act No. 227/2002 Coll. Section 3, Subsection 2 of Act of the National Council of the Slovak Republic No. 42/1994 Coll. on Civil Protection of Citizens as amended by Act No. 117/1998 Coll. Section 2, Letter a) of Act No. 387/2002 Coll. on Management of State in Crises apart from the Time of War and Warfare, Section 2, Letter s) of Act No. 414/2002 Coll. on Economic Mobilisation and on Change of Act of the National Council of the Slovak Republic No. 274/1993 Coll. on define of powers of the authorities in consumer protection matters as amended.

¹⁴⁾ Section 9, Subsection 3 and Section 12, Subsection 8 of Act No. 264/1999 Coll., Order of the Government of the Slovak Republic No. 394/1999 Coll. setting details of technical requirements for products with regard to electromagnetic compatibility as amended, Order of the Government of the Slovak Republic No. 443/2001 Coll. setting details of technical requirements and on conformity assessment procedures for radio and telecommunications terminal equipment.

- a) name, surname, and address of the party notifying the Office of network, service or network and service provision if a natural person is concerned, or business name, registered seat and legal form if a legal entity is concerned, or the business name and place of conducting business in case of an entrepreneur,
- b) identification number of the notifying party, if assigned,
- c) person or persons authorised to act on behalf of the undertaking in the relevant matter and information necessary for efficient contact with these persons,
- d) brief description of networks, services or networks and services, including the specification whether the networks, services or networks and services are public or not,
- e) expected date of initiation, change or cancellation of the network, service or network and service provision.

(3) Upon delivery of a sufficient and complete notification, the Office shall register the notifying party as an undertaking providing networks, services or networks and services. Should the notification be incomplete, the Office shall return it for completion. The Office shall publish the registration within one week following the delivery of such a notification on the Internet. If requested by the notifying party, the Office shall affirm fulfilment of notification obligation to the undertaking within one week following the delivery of the notification. **In confirmation on fulfilment of notification obligation, the Office shall state the information in relation to rights pursuant to Sections 28, 69 and 70.**

CHAPTER THREE REGULATION OF COMPETITION IN ELECTRONIC COMMUNICATIONS

Section 15 Definition of Relevant Markets

(1) The Office shall define relevant markets in the field of electronic communications (hereinafter as “relevant market”) on the basis of the list of relevant markets and procedures of relevant market analysis recommended by the European Commission in line with principles of assurance of competitive environment and taking into account specific national circumstances, especially geographical ones.

(2) The Office shall continuously supplement or change the list of relevant markets based on instructions and recommendations of the European Commission. The Office shall define the list of relevant markets and its amendments by a decision. The Office shall publish its decision in the Journal and announce it in the Collection of Acts of the Slovak Republic by publishing a notification of the Office of issuance of such a decision.

(3) The Office shall follow the procedure referred to in Section 10 before defining the relevant markets¹⁵⁾ that differ from those defined in recommendations and guidelines of the European Commission.

(4) The Office shall co-operate with the European Commission in determination of transnational markets according to the requirements of the European Commission.

Section 16 Analysis of Relevant Markets

(1) The Office shall analyse relevant markets at least once in two years. The aim of that analysis shall be to detect whether there is effective competition on the relevant market **and whether remedial measures under special regulations or legally binding acts of European Communities and European Union in the field of competition law for provision of services and networks are sufficient to provide for this.**

(2) Effective competition is a situation on the relevant market, when none of the undertakings doing business on the given relevant market has significant market power.

(3) An undertaking with significant market power on the relevant market is an undertaking which individually or jointly with other undertakings has such position on the market that it is not exposed to effective competition and its economic influence enables it to behave, in a substantial extent, independently of competitors and users (hereinafter as “SMP undertaking”).

¹⁵⁾ Section 3, Subsection 3 of Act No. 136/2001 Coll. on Competition Protection and on Change and Amendment of Act of the Slovak National Council No. 347/1990 Coll. on organisation of the ministries and other State administration authorities of the Slovak Republic as amended.

(4) When assessing whether it is a SMP undertaking, the Office shall evaluate criteria related to the respective analysed relevant market:

- a) size of the undertaking in relation to the relevant market, as well as changes of its relative share in the course of time,
- b) control over unique facility¹⁶⁾, scope of restrictions on the entry to the relevant market and the resulting degree of effective competition,
- c) existence of technologically conditioned advantages,
- d) appropriate negotiating power on the side of demand,
- e) access to financial resources,
- f) level of differentiation of services,
- g) economies of scales,
- h) assortment savings from,
- i) degree of vertical integration,
- j) highly developed distribution and sales network,
- k) existence of potential competition,
- l) barriers of the entry to the market,
- m) current status of competition on the relevant market, **or**
- n) other criteria in relation to the respective analysed relevant market.**

(5) SMP undertaking can be considered an undertaking with significant market power also on a closely related market, if the links between the two relevant markets enable transfer of influence from one market to the other market and thus strengthening the market power of the undertaking.

(6) The joint significant market power of two or several SMP undertakings providing networks, services or networks and services on the relevant market can be found also in the absence of structural or other links between them, if the undertakings operate in the market, the structure of which creates conditions for joint co-ordinated behaviour. The prerequisite for joint significant market power is a relevant market having a high degree of concentration and transparency, especially with respect to:

- a) mature market,
- b) stagnant or moderate growth on the demand side,
- c) low elasticity of demand,
- d) homogeneous product,
- e) similar cost structure,
- f) similar market shares,
- g) lack of technical innovations and obsolescent technology,
- h) absence of excess capacity,
- i) considerable barriers to entry to the market,
- j) lack of negotiating power on the demand side,
- k) lack of effective competition,
- l) various kinds of links between the undertakings concerned,
- m) retaliatory mechanisms between the undertakings concerned,
- n) lack or reduced scope for price competition.

Section 17

Determination of a Significant Market Power Undertaking

(1) Where the Office finds out on the basis of an analysis pursuant to Section 16 that there is not an effective competition on the relevant market, after the conclusion of consultations in compliance with Section 10 it shall, by a decision, identify a SMP undertaking and, at the same time, impose in the decision at least one obligation pursuant to Sections 18 to 24 and 27 on the SMP undertaking. These obligations must be based on the detected status and must be justified and appropriate with respect to the purpose and principles of regulation which are a support of effective competition and development of internal market. If there is a SMP undertaking determined on this market, the Office shall let the SMP undertaking retain its existing obligations, change or amend them.

(2) In case the Office on the basis of a market analysis finds out that there is an effective competition on the given relevant market, it shall not impose or maintain in force any obligations pursuant to Sections 18 to 24 and 27. The Office shall cancel the existing obligations in a decision cancelling the designation of the undertaking as SMP

¹⁶⁾ Section 8, Subsection 3 of Act No. 136/2001 Coll.

undertaking **and, within an appropriate period beforehand, notifies the parties concerned by withdrawing these obligations.**

(3) The Office shall publish each decision pursuant to Subsections 1 and 2 (Section 6, Subsection 4).

(4) In case the European Commission determines transnational markets pursuant to Section 15, Subsection 4, the Office in co-operation with the relevant national regulatory authorities shall perform analysis of the determined transnational market and decide on possible imposing, maintaining, change or cancellation of the obligations of SMP undertakings pursuant to Sections 18 to 24 and 27.

(5) Consultations (Section 10) on relevant market analysis with regard to imposing, changing or cancelling obligations pursuant to Sections 18 to 24 and 27 are related to the undertaking in relation to which the obligations are imposed, changed or cancelled **and other persons whose rights and obligations may be affected.**

Section 18 Transparency of Access

(1) In order to provide for transparency in relation to access or interconnection, the Office shall be entitled to impose the obligation to publish specific information, especially accounting information, technical specifications, network characteristics, contractual terms and conditions for supply and use of services including prices, on the SMP undertaking. If it is necessary, the Office shall specify the information which the SMP undertaking is obliged to submit to the Office or to publish, it shall set the required level of detail of their content and the way in which the information is to be published.

(2) **The Office may impose the obligation on the SMP undertaking to publish the reference offer for access and interconnection at the latest by 60 days from the validity of the decision on imposing this obligation, in particular if the obligation of non-discrimination has been imposed on this SMP undertaking.** The SMP undertaking shall do so within 60 days following the date on which the decision on imposition of the specific obligation to submit reference offer for access or interconnection came into force. The reference offer must be transparent in order to ensure that undertakings requesting access or interconnection will not be asked to pay for facilities which are not necessary for provision of the required service. The reference offer must be sufficiently structured and include also a description of individual items, usual points of interconnection, quality, related deadlines and terms and conditions including prices. In order to exercise obligations pursuant to this Act, the Office shall be entitled to order the SMP undertaking to change the reference offer; the Office may consider the proposed change of the reference offer submitted by the undertaking. The undertaking shall be obliged to submit the amended reference offer to the Office for publishing within 30 days following the date on which the decision issued by the Office came into force.

(3) In case the SMP undertaking was imposed obligations pursuant to Section 21 related to an unbundled access to the local loop, it shall be obliged to issue the reference offer for unbundled access to the local loop and to submit it to the Office for publishing within the deadline set in Subsection 2. The reference offer for unbundled access to the local loop must include conditions stated in Annex No. 2 hereto. The reference offer must not include any prices for network elements or facilities for which the entitled undertaking providing public network, public service or public network and public service had to pay, if they are not necessary for provision of its services.

(4) The Office shall publish the submitted reference offer without undue delay.

Section 19 Non-discriminatory Approach to Access

(1) The Office shall be entitled to impose the obligation of non-discrimination in the matter of access or interconnection of networks on the SMP undertaking.

(2) On the basis of obligation imposed pursuant to Subsection 1, the SMP undertaking shall be obliged to apply comparable conditions under comparable circumstances to other undertakings and provide other undertakings with information and services under the same conditions and of the same quality as if it used them for its own needs or provided them to controlled person or undertaking in which it has right to make co-decision.

Section 20 Separated Records

(1) The Office shall be entitled to impose on SMP undertaking providing access or interconnection the obligation to keep separate accounts in the accounting system for each specific activity related to access or interconnection and to require vertically integrated undertaking to make its wholesale and its internal prices more transparent in order to meet the requirement of non-discrimination pursuant to Section 19 or to avoid giving preference or discriminating some services by redistribution of costs and revenues from other services and among the other services, except for the public telex service and the public telegraph service. The Office shall be entitled to specify the structure of the accounting records and methodology of separate records in the accounting system.

(2) The SMP undertaking shall be obliged to submit, upon the request of the Office, the accounting records, including data on earnings for each relevant market of access and interconnection for verification of compliance with obligation of Subsection 1. If such information should contribute to an open and competitive market, the Office shall publish it. Upon publishing of information, the Office must pay attention to the right of the SMP undertaking for protection of its business confidentiality.

Section 21 Access to Specific Network Facilities

(1) The Office shall be entitled, in relation to access or interconnection, to oblige the SMP undertaking to meet reasonable and justified request for access to, and use of specific network elements and associated facilities, and a request for interconnection of networks, particularly in cases when it finds out that denial of access or unreasonable terms and conditions would not allow for effective competition on the market for end-users or would not be in their interest. With regard to these obligations the Office shall be entitled to oblige the SMP undertaking to:

- a) give third parties access to specified network elements including unbundled access to the local loop,
- b) provide specified services on a wholesale basis for their further resale by third parties,
- c) not to withdraw access to facilities already granted,
- d) negotiate in good faith with other undertakings requesting access to the network or interconnection the network,
- e) ensure open access to interfaces, protocols and encoding facilities, which are necessary for interoperability of services or virtual networks services,
- f) enable co-location and facility sharing including buildings, spaces and parts of lines,
- g) provide specified services needed to ensure interoperability of end-to-end services to users, including provide of facilities for intelligent network services or roaming on mobile networks,
- h) provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services,
- i) interconnect networks or network facilities.

(2) The Office shall be entitled to supplement the obligations pursuant to Subsection 1 with fulfilment of conditions of fairness, reasonableness, and timeliness. **If it is necessary to provide for usual network operation, the Office may determine technical or operational conditions of access to specific network facilities or to interconnection of networks.**

(3) When imposing obligations pursuant to Subsections 1 and 2, the Office shall take into consideration:

- a) the technical and economic acceptability of using or installing competing facilities in the light of the rate of market development, the method and type of access and interconnection,
- b) the feasibility of providing the required access and interconnection with regard to the capacity available,
- c) the initial investment by the owners of telecommunications facilities and networks in relation to risks involved in making the investment,
- d) the need to safeguard competition in the long term,
- e) the protection of rights of investing undertakings or rights resulting from the intellectual property rights,
- f) the provision of pan-European services.

Section 22 Regulation of Access Prices and Cost Orientation Obligation

(1) Should the Office find out, on the basis of the relevant market analysis, that the lack of effective competition enable the SMP undertaking to require unreasonable prices, it shall be entitled to impose the SMP undertaking, with regard to provision of specific types of access or interconnection on the given markets, to set the prices so that they include only costs connected with provision of access or interconnection and they do not include that costs which do not relate with

such provision pursuant to a price calculation method determined by the Office which shall include types of costs and rules for their allocation. The Office shall take into consideration the extent of investments made by the SMP undertaking and reasonable rate of return on the invested capital and the related risks. The Office shall be obliged to ensure that the prescribed return on investment and pricing mechanisms of the SMP undertaking support effective competition and represent a benefit for end-users. The Office designates and publishes the price calculation method and its amendments by decision in the Journal.

(2) In price regulation, the Office may take account also of prices on comparable competition markets, in order to promote effectiveness and competition and to provide for maximum benefit for consumers.

(3) Based on the obligation imposed pursuant to Subsection 1, the SMP undertaking shall be obliged, upon the request of the Office, to prove that the prices for services it provided are set in line with Subsection 1. The Office shall be entitled to require from the SMP undertaking justification for the prices or, if appropriate, to order their modification. For the purposes of price calculation of efficient service provision, the Office shall be entitled to use a particular price calculation method, which may be independent of and different from the method used by that undertaking.

(4) If the Office, pursuant to Subsection 1, determined the price calculation method supporting price regulation, the Office shall publish the description of the price calculation system specifying at least the main cost categories and rules for their allocation.

(5) In case the SMP undertaking is imposed the obligation to use a specific price calculation method pursuant to Subsection 1, a qualified and independent person authorised by the Office shall verify the application of the method. The Office shall publish the results of the verification once per year.

Section 23 Regulation of Services for End-users

(1) Should the Office find out, upon the analysis of the relevant market (Section 16), that there is not effective competition on the markets for end-users and the obligations imposed pursuant to Sections 18 to 22, and 27 have not led to the fulfilment of the purpose in accordance with Section 1, Subsection 2 hereof, the Office shall be entitled, in relation to an SMP undertaking, in order to protect end-user interests and simultaneously promote effective competition, to impose mainly:

a) ban to:

1. require unreasonably high prices,
2. hinder the entry to the market, require unreasonably low prices or hinder the entry to the market and require unreasonably low prices with the aim to eliminate competition,
3. inappropriately prefer a certain group of end-users,
4. bundle provision of services to provision of other services without any reason and authorisation,

b) obligation not to exceed maximum prices for end-users and comply with price regulation with emphasis on cost oriented prices and prices on comparable markets with effective competition.

(2) The Office shall be entitled to oblige the SMP undertaking on the market of services for end-users, on which obligations pursuant to Subsection 1 were imposed, to use a price calculation method encompassing types of costs and rules for their allocation. The Office or a qualified and independent person authorised by the Office shall verify the application of the above-mentioned method. The Office shall publish the results of the verification annually. **The Office shall determine the method of price calculation and amendments thereof in the decision, which shall publish in the Journal.**

(3) The Office shall not exercise regulation on markets pursuant to Subsection 1 on which effective competition was recognised.

Section 24 Leased Lines

(1) Leased lines shall be a service that includes provision of transmission capacity among different points of the same network or different networks, it shall not include switching functions controlled by its user.

(2) The extent of the minimum set of leased lines shall be defined by a generally binding legal regulation issued by the Office.

(3) In case the Office finds out upon analysis of the relevant market (Section 16) that there is not effective competition on the markets in which a part or a complete minimum set of leased lines is provided, the Office shall oblige the SMP undertaking on such markets to provide a part of or a complete minimum set of leased lines and to provide this service on the basis of transparency, cost orientation and non-discrimination **under Annex No. 3.**

(4) The Office shall be entitled to oblige the SMP undertaking on the market of services pursuant to Subsection 3 to use a price calculation method including types of costs and rules for their allocation. The Office or a qualified and independent person authorised by the Office shall verify the application of the above-mentioned method anytime. The Office shall publish the results of the verification once a year. **The Office shall determine the method of price calculation and amendments thereof in the decision, which shall publish in the Journal.**

Section 25

Conditional Access Systems

(1) Conditional access system means any technical measure or agreement ensuring, in a comprehensible form, access to protected services conditioned by a subscription or other consent of the provider of such service. A protected service means radio and television programme services and information society services.

(2) Equipment for enhanced digital television means ancillary equipment intended for connection to the television set or integrated digital television set for reception of digital television services.

(3) It shall be forbidden to use a telecommunications facility so constructed or modified that it enables access to a protected service in a comprehensible form for commercial purposes, without the permission of the service provider.

(4) In the conditional access to digital television and digital radio the undertaking providing conditional access shall be obliged to guarantee to broadcasters the application of conditions of this access. The details on the conditions of access shall be stipulated in a generally binding legal regulation issued by the Office.

(5) The undertaking receiving and broadcasting programme services with wide-screen format shall be obliged to maintain this format.

(6) A television programme service with wide-screen format means a service that consists wholly or partially of programmes produced and edited to be displayed in a full height wide-screen format. The 16:9 format is the reference format.

Section 26

Affordability of Universal Service Prices

(1) The Office shall be obliged to monitor the evolution and level of prices of services that fall within the universal service obligations (Section 50) provided by designated undertakings, in particular with regard to national prices for end-users and their income.

(2) The Office shall be entitled to oblige designated undertakings in line with Section 6, Subsection 4 to:

- a) provide end-users with an opportunity to choose prices differing from prices based on normal commercial conditions and which allow end-users with low incomes or with special social needs to access publicly available telephone services and use them,
- b) apply common prices throughout the whole territory of the state, geographical price averaging or to comply with maximum prices.

Section 27

Carrier Selection and Carrier Pre-selection

(1) The Office shall oblige the SMP undertaking on the market of provision access to public telephone network and use of this network at a fixed location to enable its subscribers, at their own discretion, the access to services of any interconnected undertaking providing public telephone services:

- a) on a call-by-call basis by dialling a carrier selection code and
- b) by means of pre-selection with a facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code.

(2) The prices for access and interconnection related to provision of carrier selection pursuant to Subsection 1 must be so set that they only include costs connected with provision of carrier selection pursuant to Subsection 1 and they exclude that costs which do not relate with such provision. The Office shall be entitled to impose on undertaking, if direct payments from subscribers are requested for the services related to carrier selection, to adjust these payments so, that they do not act as a disincentive of interest of subscriber for the use of carrier selection.

(3) The Office shall be entitled to impose, on the basis of the relevant market analysis, on the SMP undertaking the obligation to enable the carrier selection also in other networks than the fixed public telephone network, if the results of the relevant market analysis show that it shall be necessary in order to achieve effective competition.

Section 28 **Interconnection of Networks**

(1) An undertaking providing a public network shall have the right and, upon the request of other undertaking providing public networks, obligation to negotiate network interconnection and, if feasible, to interconnect its network with the network of the requesting undertaking on the basis of a contract.

(2) Irrespective of the obligations imposed under this Act on SMP undertakings, the Office may oblige, after consultations pursuant to Section 10, the undertakings which control access to at least one network termination point identified by one or more numbers in the numbering plan to provide for end-to-end connection, in justified cases also to interconnect the networks within the period determined by the Office.

(3) An undertaking providing a public network shall have the right and, at the request of another undertaking providing a public network in any state of the European Union on the base of general authorisation, obligation to negotiate network interconnection and, if feasible, to interconnect its network with the network of the requesting undertaking on the basis of a contract. **The undertaking of other Member State requesting access or interconnection in the Slovak Republic does not have to have authorisation to operate in this territory if it does not provide services or networks there.**

(4) Information provided to undertakings during the process of negotiating the interconnection of public networks may be used only for the purpose for which the information was provided, and must not be misused by third parties for the purposes of achieving a competitive advantage. The present provision shall not apply to information pursuant to Section 38, Subsection 2.

(5) Interconnection of public networks must be available in usual points of interconnection and in the quality, which shall not be worse than the operation of the public network for the own needs of the undertaking or for provision of the public network and service to the undertaking in position of controlled person or undertaking in which it has right to make co-decision. The undertaking shall be responsible for interoperability of the interconnection on the side of the public network it operates, up to the point of interconnection.

(6) An undertaking providing public network shall be obliged to enable interconnection:

- a) under technical requirements resulting from the technical standards and technical specifications pursuant to Section 13, Subsection 2, Letter r) ensuring interoperability of services,
- b) in a reasonable period of time and under reasonable contractual conditions, whereas the interconnection must not be conditioned by payment for those parts of the public network or for those facilities that are not inevitable for interconnection,
- c) also in other locations than in usual points of interconnection of public networks, if the undertaking providing a public network requests so and covers the essential costs of such interconnection.

(7) The undertaking shall be obliged to submit the concluded contract on interconnection of networks to the Office within 15 days following its conclusion. The Office shall publish notification of conclusion of a contract on interconnection of networks, including basic technical and economic conditions of interconnection. The Office shall allow everyone requesting so to look into the contracts, except for those parts of the contracts which will be marked by contracting parties as business confidentiality. The price for interconnection is not subject to business confidentiality.

CHAPTER FOUR MANAGEMENT OF NUMBERS AND FREQUENCIES

Section 29 Management of Numbers and the Numbering Plan

- (1) The Office:
 - a) manages the use of numbers,
 - b) prepares and issues the numbering plan,
 - c) assigns numbers and number blocks according to the numbering plan,
 - d) decides on the arrangement of the borders of the public telephone network.
- (2) Numbers shall be the calling numbers, number blocks and addresses of public networks and services.
- (3) The Office shall set forth the rules for setting and use of numbers and the general terms and conditions for their assignment in the Numbering Plan. Upon its elaboration, the Office shall respect international agreements and obligations of the Slovak Republic resulting from its membership in international organisations, and also take into account the development of new services and ensuring of a sufficient amount of numbers.
- (4) An undertaking shall be obliged to provide the Office, upon its request, with the information necessary for preparation and execution of the numbering plan.
- (5) **The numbering plan shall be defined by a generally binding legal regulation issued by the Office.**

Section 30 Management of Frequency Spectrum

- (1) The Office shall perform management of frequency spectrum, which shall include:
 - a) co-operation with the Ministry in elaboration of the draft of the national table of frequency allocations,
 - b) preparing the plan of use of frequency spectrum,
 - c) **allotment or assignment of frequencies and authorisation to operate radio facilities,**
 - d) co-ordination and monitoring of use of frequency spectrum,
 - e) **granting consent to the transfer of rights for use of frequencies.**
- (2) The national table of frequency allocations shall specify frequency bands allocated to particular services and radio facilities. The national table of frequency allocations shall be published on the Internet.
- (3) An inter-departmental commission, the statutes and rules of procedure of which are approved by the Ministry, shall participate in preparation of the national table of frequency allocations.
- (4) The Office, on the basis of the national table of frequency allocations, shall prepare the plan of use of frequency spectrum taking into account the need of European harmonisation, level of technical development of radio facilities and the level of operation of networks and services in a particular frequency band. The Office shall publish the plan of use of frequency spectrum on the Internet.

Section 31 Individual Authorisation for Use of Numbers

- (1) Individual authorisation for use of numbers shall be the decision of the Office on assignment of numbers.
- (2) The Office shall assign numbers in line with Section 6, Subsection 4 on the basis of an application of the undertaking providing public network, public services or public network and public service within three weeks following the delivery of a complete application.
- (3) The application for assignment of numbers shall contain:
 - a) name and identification data of the applicant,
 - b) information about the requested numbers,
 - c) purpose for which such numbers are going to be used,
 - d) period of usage of the numbers.

(4) The decision on assignment of numbers shall include:

- a) name and other identification data of the undertaking to which the numbers are allocated,
- b) assigned numbers and definition of the service for which the number shall be used, including any requirements related to provision of this service, effective and efficient use of numbers,
- c) requirements for number portability,
- d) specific terms and conditions for the use of assigned numbers,
- e) period for which the numbers are allocated,
- f) annual amount of payment for the used numbers and the way in which it is to be paid,
- g) obligation to submit a report on the use of numbers to the Office once a year within the period of time stipulated in the decision,
- h) obligations resulting from international agreements related to the use of numbers.

(5) The Office shall not assign the numbers, if:

- a) the numbering plan does not enable assignment of numbers,
- b) the applicant does not fulfil conditions for assignment of numbers, or
- c) the applicant breaches conditions of the valid assignment of numbers.

(6) The Office shall decide on a change of an assigned number, if:

- a) it is necessary for the compliance with the obligations of the Slovak Republic resulting from international agreements or from the membership of the Slovak Republic in an international organisation,
- b) it is necessary from the viewpoint of state defence, security of the state, and public order protection,
- c) it is, due to technical or operational reasons, necessary in order to maintain security of public traffic,
- d) it is in the interest of adaptation to market requirements or requirements of users,
- e) there has been any change in the circumstances on the base of which the number was assigned,
- f) there is a justified request of the undertaking to which the number was assigned.

(7) In the proceedings pursuant to Subsection 6, the Office shall inform the undertaking authorised to use of numbers on the intended change in writing. Based on such written information, the undertaking may provide its statement to the intended change, within four weeks following its delivery.

(8) The undertaking authorised to use of numbers must comply with the decision of the Office on change of number assignment pursuant to Subsection 6, Letters a) to e) in the period determined by the Office and upon its own cost. If such decision was issued on the basis of reasons specified under Subsection 6, Letters a) to e), the undertaking shall not be entitled to compensation.

(9) The Office shall decide to withdraw the assigned number, if:

- a) the undertaking providing public networks, public services or public networks and public services:
 - 1. fails to comply with the obligations stipulated herein or in the decision on the assignment or change of the number, although it was notified of the possibility of withdrawal of the number in writing and the failure has not been remedied within the stipulated period; the above-mentioned shall not apply to the annual fee for the assigned numbers,
 - 2. was not using the number for a period of at least 12 months following the assignment or stopped using the assigned numbers for at least three months,
 - 3. has not rendered the annual fee for the allocated numbers within three months after its due date,
- b) it is necessary from the viewpoint of state defence and security and protection of public order.

(10) The decision on assignment of a number shall become invalid on the day of:

- a) expiration of the period for which the number was assigned,
- b) notification of the undertaking that it returns the numbers,
- c) notification of the undertaking that it terminates provision of the network, service or network and service,
- d) entry of the decision on revoking the numbers into force.

(11) A number can be assigned to another undertaking only after six months following the expiration of validity of the previous decision on assignment of that number.

(12) The undertaking to which numbers were assigned shall be obliged to pay for each number in use an annual payment of up to SKK 20 000 according to the price list or its equivalent in EUR based on the exchange rate set by the National Bank of Slovakia (hereinafter as "equivalent in EUR"). The price list shall be determined in a generally binding legal regulation issued by the Office.

Section 32
Individual Authorisation for Use of Frequencies

(1) **Individual authorisation for use of frequencies (hereinafter as the “individual authorisation”)** means a decision of the Office on assigning frequencies and on authorisation to operate a radio facility or a decision on assigning of frequencies or a decision on authorisation to operate a radio facility.

(2) The Office shall issue the individual authorisation in accordance with the plan of use of frequency spectrum. The Office shall issue the individual authorisation at the latest within six weeks from the day of delivery a complete application in case of frequencies that are available in accordance with the plan of use of frequency spectrum. The Office shall assign the frequencies in the order, in which the applications were delivered, in case there are more applicants for assigning the same frequencies. The Office may prolong the period for issuance of an individual authorisation to 8 months at the maximum, where appropriate for ensuring fair, reasonable, open and transparent procedures for all applicants.

(3) The application for an individual authorisation shall contain:

- a) name, surname and address of an applicant in case of a natural person, or business name and registered office in case of a legal entity, or business name and place of business in case of an entrepreneur – natural person, and Identification Number of Organization, if it has already been assigned to the natural person or legal entity for purposes of operation of other activity,
- b) number and type of radio facilities, where appropriate,
- c) requested frequency or a frequency band and allotment of assumed area, where appropriate,
- d) purpose and way of use of radio facilities including their technical data, if they have not already been defined mandatory by the international agreement, by which is the Slovak Republic bound,
- e) data about the person authorised to act on behalf of the applicant and the data about the person responsible for operation of the radio facility and certificate of his/her special professional qualification, if this is laid down by this Act,
- f) assumed date of putting the radio facility into operation and starting to provide electronic communications service, where appropriate,
- g) verified copy of the broadcaster's licence for analogue broadcasting issued pursuant to a special regulation¹⁷⁾, in case of authorisation to operate the radio facility for radio or television broadcasting,
- h) period for which the applicant requires the assigning of frequencies,
- i) required identification codes, if they are necessary for the respective type of service.

(4) In order to assess and verify the application pursuant to Subsection 3, the Office may require submission of information necessary to demonstrate the applicant's capability to meet the specified conditions.

(5) The Office may restrict the number of rights for use of frequencies specified in the plan of use of frequency spectrum only for reason to provide for efficient use of frequencies. The Office shall re-evaluate, annually or based on the application of undertakings involved, reasons for restriction on the number of rights. The Office shall consult the proposal to restrict the number of rights and alterations of restrictions pursuant to Section 10.

(6) If the number of rights for use of frequencies is limited or in case of selected frequencies, for which the conditions of assignment are determined in the plan of use of frequency spectrum, the Office shall assign the frequencies based on the application pursuant to Subsection 2 and the result of the selection proceedings pursuant to Subsection 7 to 17 in accordance with Section 6, Subsection 4, while it respects the need to use frequencies efficiently. During the competitive selection proceedings, the Office shall suspend the proceeding on application.

(7) The Office shall initiate the competitive selection proceeding with a call for submitting bids, in which it shall determine:

- a) frequencies, frequency blocks or frequency band, which are subject of the selection proceeding,
- b) purpose of use, conditions and principles for optimal use of frequencies,
- c) evaluation criteria,
- d) deadline for submitting the bid,
- e) requirements on the form and content of the submitted supporting documentation for the selection proceeding in order to provide for comparability of the bids,
- f) the amount of the one-off payment for allotment or assignment of frequencies as expected minimum bid,

¹⁷⁾ Section 49, Subsection 3 of Act No. 308/2000 Coll. on Broadcasting and Re-transmission.

g) additional supporting documentation for the competitive selection proceeding.

(8) The Office shall publish the call for submission of bids pursuant to Section 6, Subsection 4 and in one national daily press periodical in the Slovak Republic. The Office shall cancel the competitive selection proceeding if during the period for submission of the bid, specified in the call, no bid was submitted or none of the submitted bids were in accordance with the conditions specified in the call. The Office may cancel the selection proceeding if the circumstances, under which the competitive selection proceeding was announced, have significantly changed. Without delay, the Office shall notify all applicants about the cancellation of the selection proceeding and state the reason for the cancellation.

(9) For evaluation of the applications, the Office shall establish a Selection committee consisting of at least five members. The members of the Selection committee shall be appointed by the Chairman of the Office; only an unimpeachable and professionally competent person may be a member of the Selection committee. The member of the Selection committee shall not be:

a) a person who has an employment relation or a similar employment relationship with any participant or his representative in the selection proceeding,

b) a person who is a partner, statutory body or a member of the statutory body or controlling or supervisory body of any participant or his representative in the selection proceeding,

c) a person that is close¹⁸⁾ to a partner, statutory body or a member of the statutory body, member of the controlling or supervisory body, or a senior executive of any participant or his representative in the selection proceeding,

d) a person whose unprejudiced approach can be doubted with respect to his/her relation to the matter, to any participant or his representative in the selection proceeding.

(10) A person that is to be appointed a member of the Selection committee shall provide the Chairman of the Office with a written declaration on word of honour that in his/her case there is no obstacle pursuant to Subsection 9. Should any obstacle pursuant to Subsection 9 occur after the initiation of the competitive selection proceeding, the member of the Selection committee shall inform the Chairman of the Office on such a fact without delay and until to his/her recalling not to participate in the Selection committee's activity. Instead of him/her, the Chairman of the Office shall appoint another person to be a member of the Selection committee who shall comply with the conditions set in Subsection 9 and provide a declaration on word of honour thereof.

(11) In any phase of the competitive selection proceeding, the Office may use services of experts and independent advisors.

(12) The participant in the competitive selection proceeding shall be the person who submitted the bid within the deadline stated in the call for the competitive selection proceeding.

(13) The Office shall dismiss the bids submitted after the specified deadline and shall return them unopened to the submitter of the bid. After the expiration of the specified deadline, the bid shall not be amended.

(14) The Selection committee shall evaluate the bids pursuant to the criteria stated in the call for the competitive selection proceeding and determine the ranking of participants in the selection proceeding, and produce a report thereof. In the assignment of frequencies, the Office is bound by the ranking determined by the Selection committee.

(15) The Selection committee shall exclude from the competitive selection preceding the participant whose bid does not meet the criteria stated in the call, while the Office shall give him the reasons for the exclusion in a written notice. The Selection committee shall determine the ranking of participants of the selection proceeding and produce a report on the process and outcome of the competitive selection proceeding. The Office shall inform the unsuccessful participants on the outcome of the competitive selection proceeding and, at the same time, stop the proceeding on their application. The report and other documentation shall be the base for the continuation of the proceeding on assignment of frequencies with successful participants of the competitive selection proceeding.

(16) For the successful participants of the selection proceeding, the Office shall issue the decision on assignment of frequencies within four weeks at the latest, following the evaluation and determination of the ranking of participants of the competitive selection proceeding. This decision shall not authorise to operate a radio facility.

¹⁸⁾ Section 116 of the Civil Code.

(17) Should a successful participant of the competitive selection proceeding withdraw his application prior to issuing the decision on assigning frequencies or abandon the assigning of frequencies or should the Office cancel the decision on assigning of frequencies because the one-off payment for assigning of frequencies has not been settled within due date, the Office shall initiate the procedure in the matter on assigning of frequencies with the next successful participant of the selection proceeding, following the ranking determined by the Selection committee. The successful participant of the competitive selection proceeding shall undertake the obligations that he stated in the bid.

(18) The provisions on the competitive selection proceeding shall not apply to the assignment of frequencies for radio analogue and television analogue terrestrial broadcasting.

(19) The individual authorisation pursuant to Subsection 1 may contain only:

- a) identification data of the authorisation holder,
- b) designation of the service or type of network or technology for which the rights for use of frequency have been granted including, where applicable, exclusive use of the frequency for transmission of specific content or specific audio-visual services,
- c) conditions for efficient and effective use of frequencies including, where appropriate, coverage requirements,
- d) technical and operational conditions necessary for the avoidance of harmful interference and for the limitation of exposure of general public to electromagnetic field, where such conditions are different from the conditions specified in the general authorisation,
- e) assigned frequencies, identification codes and the period for which frequencies are being assigned, subject to any changes in the national table of frequency allocations,
- f) liabilities assumed by the undertaking in the course of the selection proceeding,
- g) operator class for amateur stations,
- h) amount and method of payment for frequencies and identification codes, and
- i) obligations that must be fulfilled in order to comply with valid international agreements on use of frequencies.

(20) The Office shall issue the authorisation to operate a radio facility for radio analogue or television analogue terrestrial broadcasting if the applicant for the authorisation owns a license for radio analogue or television analogue terrestrial broadcasting or has a contract on provision of service concluded with a holder of such a licence.

(21) The Office shall grant the individual authorisation for a maximum of 10 years. The Office may repeatedly prolong the authorisation for a maximum of ten years. In cases justified by the return on investment period, the Office may grant the individual authorisation also for a longer period or prolong the individual authorisation for a longer period. In case of an individual authorisation to operate a radio facility for radio analogue and television analogue terrestrial broadcasting issued on the basis of a license for analogue terrestrial broadcasting, the individual authorisation may be granted for the period set in the application for authorisation, for a maximum of the period for which the licence for analogue terrestrial broadcasting was granted.

(22) The undertaking may transfer its rights resulting from the assigned frequencies to other undertaking only with the approval of the Office if as a consequence of the transfer there will be no distortion of competition and no change in the use of frequency, if the use has been harmonized internationally.

(23) The conditions and procedures of transfer of rights pursuant to Subsection 22 shall be defined by a generally binding legal regulation issued by the Office.

(24) The Office shall not grant nor prolong the individual authorisation if:

- a) it is necessary to comply with obligations resulting from an international agreement or the membership of the Slovak Republic in an international organisation,
- b) the plan of use of frequency spectrum does not enable to assign the frequency,
- c) required frequency is not available, or
- d) a person requested an authorisation whose authorisation for the same type of facility within the last three years has been cancelled by the Office pursuant to Section 34, Subsection 1, Letter c).

(25) The Office may decide on change of the authorisation:

- a) due to the reason set in Subsection 24, Letter a), if the compliance with these obligations cannot be ensured in a different way,
- b) if there has been a significant change in circumstances, on which the authorisation was granted,

c) on the basis of a justified request of the authorisation holder.

(26) The Office may issue a temporary individual authorisation with validity no longer than a month, which is intended for one-off purposes that cannot be anticipated timely in advance, if the requested frequencies are available and there will be no harmful interference.

Section 33 Fees for the Rights of Use of Frequencies

(1) The fees for the right of use of frequencies shall allow for ensuring the efficient and failure-free use of frequencies. The fee for the right of use of frequencies is the one-off payment for allotment or assignment of frequencies. The recurring payment is the fee for use of each frequency and identification codes. **The one-off payment shall be payable under the decision of the Office on the individual authorisation. The Office shall cancel the decision on assignment of frequencies if the successful participant of the selection proceeding did not settle the one-off payment in due date.**

(2) The recurring payment pursuant to Section 1 in the amount up to SKK 1 000 000 or its equivalent in EUR shall be paid according to the price list while for each frequency for the purpose of radio broadcasting an annual payment up to SKK 90 000 or its equivalent in EUR shall be paid and for the purpose of television broadcasting an annual payment up to SKK 180 000 or its equivalent in EUR shall be paid. **The recurring payment shall not apply to frequencies on radio digital or television digital terrestrial broadcasting.** The price list shall be defined in a generally binding legal regulation issued by the Office.

(3) The obligation pursuant to Subsections 1 and 2 shall not apply to the use of frequencies according to the national table of frequency allocations for the purposes of defence and security of the state and protection of public order allocated to the Ministry of Defence of the Slovak Republic (hereinafter as “Ministry of Defence”), the Ministry of Interior of the Slovak Republic (hereinafter as “Ministry of Interior”) and the Slovak Intelligence Service and for the purposes of the Penal and Justice Guard Corps, Railway Police, Customs Directorate of the Slovak Republic, Fire Corps and Medical Rescue Service, basic units of integrated rescue system.

Section 34 Cancellation and Expiration of Individual Authorisation

(1) The Office shall cancel the **individual** authorisation, if the holder of the authorisation:

- a) has not started to use the assigned frequency for the authorised purpose within one year following the date on which the decision on its assignment came into force, or if the holder has not used the frequency for more than one year,
- b) has ceased to comply with some of the requirements placed on the holder of the authorisation ,
- c) failed to comply with duties stipulated by this Act or determined in the authorisation even though he was notified of the possibility of cancellation of the authorisation and failed to remedy the failure by the deadline stipulated by the Office,
- d) failed to pay the **recurring payment** for frequencies pursuant to Section 33 within three months following its due date.

(2) The **individual** authorisation shall expire:

- a) on the date of expiration of the period for which it was issued,
- b) by death or lapse of the holder of the authorisation,
- c) on the date of return of the authorisation or the date of renunciation of the authorisation by the holder specified in the notification delivered to the Office,
- d) upon the delivery of application of the undertaking for cancellation of its registration on the basis of notification obligation pursuant to Section 14,
- e) on the date on which the decision on revoking the licence issued pursuant to a special regulation²³⁾ came into force.

Section 35 Operation of Radio Facilities and Terminal Equipments

(1) Radio facilities and terminal equipment may be placed on the market, **distributed** and put into service only after the assessment of their conformity with the requirements of technical regulations in accordance with special regulations. An undertaking is obliged to submit to the Office technical specifications of the offered interfaces of public networks to

²³⁾ Sections 53 to 63 of Act No. 308/2000 Coll.

which terminal equipment is connected for publishing. **The Office shall keep a list of these interfaces and notify them to the European Commission.**

(2) Details on interoperability of terminal equipment intended for reception of the digital television signal and interoperability for analogue and digital television receivers shall be stipulated by generally binding legal regulation issued by the Office.

(3) Radio facilities may be operated on the basis of a general authorisation or **individual** authorisation.

(4) In the general authorisation or the **individual** authorisation, the Office may restricts the putting into operation of radio facilities only in order to:

- a) ensure the effective and appropriate use of the frequency spectrum,
- b) avoid harmful interference, or
- c) ensure the protection of public health.

(5) The following types of **individual** authorisation shall be issued for operation of radio facilities:

- a) **operational** authorisation, which entitle the holder to use individually assigned frequencies for operation of radio facilities under conditions defined in this authorisation,
- b) type authorisation, which are granted to a producer or importer for operation of facility of a certain type which does not fulfil the conditions of a general authorisation, but whose conditions of operation can be simplified administratively,
- c) special authorisation, which define special conditions of operation during demonstration, research, production, **trial operation**, sale, repairs and maintenance,
- d) amateur authorisation, which entitle the holder to operate radio facilities designed for technical self-education, mutual connection, and technical study.

(6) The holder of a authorisation may be:

- a) a natural person that reached the age of 18 years, and whose capability for legal acts has not been restricted, in case of an amateur authorisation a natural person that reached the age of 15 years,
- b) legal entity.

Section 36 Special Professional Qualification

(1) Selected radio facilities may be operated only by a natural person having special professional qualification for their operation. Special professional qualification includes theoretical knowledge and practical experience and knowledge of generally binding legal regulations related to the operation of selected radio facilities. **Without having special professional qualification, a physical person may operate such facilities during the training only when supervised by a person having special professional qualification. The operation may also be provided by the persons whose special professional qualification to operate specified radio facilities have been recognized by the Office. The general regulation on recognising professional qualifications^{23a} shall apply to recognising documents on education of citizens of member states of European Union on special professional qualification to operate the specified radio facilities.**

(2) The special professional qualification shall be tested in an exam by the Office and the Office issues a certificate of special professional qualification. The Chairman of the Office shall establish the Examination Commission and appoint and recall its members.

(3) The obligation pursuant Subsection 1 does not relate to operation of selected radio facilities used by units of Ministry of Defence, Ministry of Interior and Slovak Intelligence Service for purpose of ensuring state defence and state security.

(4) Selected radio facilities shall be:

- a) radio station (hereinafter “station”) operating in the short wave bands reserved for telegraph and telephone traffic,
- b) aircraft station,
- c) aircraft earth station,
- d) aeronautical station,
- e) aeronautical earth station,
- f) ship earth station,

^{23a)} **Act No. 477/2002 Coll. on Recognising Professional Qualifications as amended by later regulations.**

- g) ship station,
- h) coast station,
- i) amateur station.

(5) Details on selected radio facilities, establishment of the Examination Commission, contents, scope and course of the examination and the certificates of special professional qualification shall be stipulated in a generally binding legal regulation issued by the Office.

(6) The natural person who is to operate specified radio facilities equipped by Global Maritime Distress and Safety System (GMDSS) shall undergo, before taking an exam, a practical training in a training centre recognised by an International Maritime Organization.

CHAPTER FIVE SUPERVISION

Section 37 Scope and Measures of Supervision

(1) Supervision shall be performed by means of:

- a) control of fulfilment of obligations and conditions stipulated by this Act, decisions and measures of the Office with respect to provision of networks, services or networks and services,
- b) control of compliance with conditions for placing on the market and putting into operation of telecommunications facilities and facilities that can be a source of electromagnetic disturbance,
- c) control of technical status of telecommunications facilities, networks and lines,
- d) measures for elimination of detected deficiencies and obligation to abstain from activities which are in contradiction with the conditions stipulated hereby,
- e) protection against interference, including monitoring and detection of the source of interference with the operation of networks, services and facilities.

(2) Employees of the Office authorised to conduct supervision (hereinafter as “authorised persons”), shall be, in exercising of supervision:

- a) entitled to enter land and premises, in which the inspected facilities are located or where they are assumed to be located and execute the control pursuant to Subsection 1, while they are entitled to verify the identity of the controlled persons, their employees or persons acting on behalf of controlled persons, they can require the necessary documents, data and written and oral explanations from the controlled persons, and in justified cases they can temporarily take away the facilities for the time inevitably necessary to perform testing or control, and to require from the controlled persons to eliminate the detected shortcomings in the time period determined in the record of control,
- b) obliged to prove their identity with their employee identity cards which authorise them to perform the control, to elaborate a record on the course and result of the control and to provide the controlled person with one copy of the record, to keep facts they learned during the control and in relation to it confidential with respect to third parties.

(3) The controlled persons shall be:

- a) entitled to express their opinion with respect to detected shortcomings by the deadline stipulated by the Office,
- b) obliged to tolerate performance of supervision pursuant to Subsection 2, Letter a) and to provide the authorised persons with all required information and documents,
- c) obliged to cover the costs for tests to verify the conformity of products with technical regulations, where their declared conformity does not comply with the requirements of legal regulations.
- d) obliged, in the period determined in the written record of procedure and the result of control, to eliminate detected shortcomings or take all necessary measures to eliminate them and, in writing, notify the Office their elimination, in the period stated in the written record of procedure, and the result of control.**

(4) If the Office finds out that the undertaking does not comply with one or several conditions of the general authorisation, individual authorisation or obligations pursuant to Sections 18 to 28, it shall inform the undertaking on the detected shortcomings in writing and set a deadline by which the undertaking shall give its standpoint to the shortcomings. The period for the removal of shortcomings shall be within one month following the delivery of the written notification of detected shortcomings. The period may be shorter than one month, if the undertaking failed to meet the obligation repeatedly, or longer than one month, if the Office decides so.

(5) Should the Office find out that the controlled person failed to remove the shortcomings within the period defined in Subsection 4, it shall impose, by a decision, measures for remedy.

(6) On the basis of instructions given in the record from the control, the controlled persons shall be obliged to stop immediately and temporarily the supply, sale or operation of equipment completely or partially, if:

- a) health, safety or property of persons or environment are or could be endangered due to the breach of obligations and conditions,
- b) it is necessary for enforcement and fulfilment of commitments resulting from international agreements, or
- c) serious economic or operational problems were caused or could be caused to other undertakings or users due to the breach of obligations and conditions.

(7) The controlled person shall have the right to file objection to the record from the control and a proposal for correction not later than two weeks following the day on which the immediate stopping of supply, sale or operation was ordered. The objection shall have no postponing effect.

(8) If the controlled person failed to fulfil the measures for remedy imposed in the decision and repeatedly breached provisions of this Act, the general authorisation or individual authorisation, the Office shall:

- a) prohibit the provision of networks, services or networks and services provided on the basis of general authorisation, or
- b) cancel the decision on assignment of frequencies, identification codes, numbers.

(9) The Office may impose a discipline penalty up to SKK 5 000 to persons who obstruct the conduct of supervision by failure to meet the obligations stipulated in Subsection 3, Letter b).

Section 38 **Obligation to Provide Information**

(1) On the basis of written and justified request of the Office, the undertaking or holder of rights to use frequencies, numbers or frequencies and numbers shall be obliged to submit, in the scope required and time limit specified by the Office, information necessary for the enforcement of this Act and international agreements binding upon the Slovak Republic. The Office shall be entitled to request appropriate information in the scope of its powers pursuant to Section 37.

(2) Besides the obligation to provide information pursuant to Subsection 1, the undertaking shall be obliged to submit, on the request of the Office, **to the requested extent and period determined by the Office**, information for verification of compliance with conditions of the general authorisation, individual authorisation and obligations pursuant to Sections 18 to 28, which are appropriate and objectively necessary for:

- a) systematic or occasional reviewing of compliance with conditions pursuant to Section 13, Subsection 2, Letters d) and e),
- b) occasional reviewing of compliance with conditions of the general authorisation (Section 13, Subsection 2) upon receiving a motion or complaint, dispute solution or in case the Office has other reasons to think that a certain condition has not been fulfilled or in case the Office investigates the subject matter on its own initiative,
- c) procedures of examination of applications for assignment of frequencies, identification codes, numbers or frequencies and identification codes and numbers,
- d) publishing of surveys comparing the quality and prices of services for the benefit of end-users,
- e) defined statistical purposes,
- f) relevant market analyses.

(3) The Office may not request the undertaking to provide information stipulated in Subsection 2, Letters a), b), d), e), and f) before the undertaking starts provision of the network, service or network and service or as a condition for start of their provision.

(4) If the Office request the undertaking to provide the information pursuant to Subsection 2, it shall be obliged to inform the undertaking about the purpose for which the information will be used.

PART THREE
ELECTRONIC COMMUNICATION NETWORKS AND SERVICES

CHAPTER ONE
PROVISION OF NETWORKS AND SERVICES

Section 39

(1) Public networks and associated facilities must comply with technical standards and technical specifications for networks, services or networks and services pursuant to Section 13, Subsection 2, Letter r) with respect to:

- a) security of network operation ,
- b) maintaining of network integrity and infrangibility,
- c) interoperability of services,
- d) connection of terminal equipment.

(2) An undertaking providing a public telephone network, service or network and service shall be obliged to provide all users with:

- a) uninterrupted access to all emergency call numbers including the single European emergency call number “112“,
- b) possibility of dual tone multi-frequency dialling and calling line identification presentation,
- c) processing of calls within European telephone numbering space,**
- d) possibility to make calls to non-geographic numbers in the Slovak Republic for end-users from member states of the European Union, if it is technically and economically feasible, except for the cases where the called subscriber has limited, for commercial reasons, access of a calling party from certain geographical areas to specific non-geographic numbers.**

Section 40
General Conditions

(1) An undertaking providing public services shall be obliged to issue and publish General Conditions 15 days before the start of provision of the services, at the latest. The General Conditions for public telephone service contain in particular:

- a) business name, registered seat or place of business,
- b) types of provided services, their description and quality,
- c) contractual conditions,
- d) conditions for prolongation and termination of service provision,
- e) appropriate information about rights related to universal service,
- f) selective call barring,
- g) types of repairs and maintenance services,
- h) claims procedure rules,
- i) mechanism for settlement of disputes,
- j) information about emergency calls numbers, including the single European emergency call number “112“,
- k) information about the possibility of calling line identification presentation, and on possibilities of calling line identification restriction.

(2) General Conditions for provision of public services can include other conditions related to the provision of these services.

(3) If an undertaking provides several public services, it shall be obliged to issue General Conditions for each service separately.

Section 41
Tariff

(1) An undertaking providing public services shall be obliged to issue and publish a Tariff 15 days before the start of provision of the services, at the latest.

(2) The Tariff shall include especially:

- a) prices for particular services,
- b) free of charge services,

- c) details on one-off, regularly recurring, and variable prices, including first and last day of the billing period, and way of payment of these prices,
- d) data on how user may request information about up-to-date prices of the undertaking and possible discounts on these prices.

(3) Emergency calls, including calls to the single European emergency call number “112”, reports on faults of public pay telephones, and information about changes of telephone numbers within the own network of the undertaking provided via automatic announcements shall be provided free of charge.

(4) If an undertaking provides several public services, it shall be obliged to issue the Tariff for each service separately.

Section 42 Rights and Obligations of Undertaking and User

(1) The undertaking shall have the right to:

- a) the payment of the price for the provided public service according to the Tariff, provided the undertaking delivered the bill to the subscriber three months after the last day of the relevant billing period at the latest; this does not apply to the billing of pre-paid services,
- b) the compensation for the damage caused to the public network and to the public telecommunications facilities,
- c) refuse the conclusion of the Contract on Connection, if:
 - 1. it is not technically feasible to provide the service in the required location, or to the required extent, except for the provision of the universal service,
 - 2. the applicant does not provide the guarantee that he/she will adhere to the contract, especially for the reason that he/she is the debtor of the undertaking or of another undertaking or because some of the undertakings has withdrawn from the contract with him/her or terminated the contract with him/her,
 - 3. the applicant does not agree with the General Conditions,
- d) temporarily interrupt or restrict the provision of the public service due to:
 - 1. the misuse of the service until such misuse is eliminated or technical measures in preventing such misuse are implemented,
 - 2. the failure to pay the due amount for the public service within the time limit specified in the General Conditions, until it is paid or the Contract on Connection expires; **provision of public telephone service at a fixed location of connection to network may be temporarily interrupted only after a preceding due notice and expiration of the additional period determined for payment set in the General Conditions,**
 - 3. the breach of contractual conditions by the subscriber **other than those in Point 2.**

(2) The subscriber shall have the right to:

- a) conclude a contract with the undertaking, if there is no reason for its refusal pursuant to Subsection 1, Letter c),
- b) the provision with the public service to the extent agreed in the contract and for the price according to the Tariff,
- c) the clearance of faults in provision of the service that were not caused by him/her and without cost for him,
- d) on his/her request, the provision with the bill itemised with respect to particular outgoing calls,
- e) reimbursement of a proportionate part of the price for the period during which the service was not provided, in case such situation was caused by the undertaking in accordance with the General Conditions; the subscriber shall claim this right towards the given undertaking not later than within three months after restoration of service provision,
- f) the provision with access to operator assistance inquiry services.

(3) The undertaking is obliged to:

- a) conclude a Contract on Connection with every person interested in the provision of the public service, if there is no reason for its refusal under Subsection 1, Letter c),
- b) submit a clear and comprehensible bill for the provided services to the subscriber, provided the nature of the service does not imply that the bill is unnecessary; and provide, on request, detailed information on particular outgoing calls,
- c) the provision with the identification service of malicious, nuisance, and threatening calls (hereinafter “malicious calls”) on the request of subscriber, if technically feasible,
- d) keep a register of personal data [Section 55, Subsection 1, Letter b)] of all subscribers of its network, including the subscribers of pre-paid services, in case a user is assigned a telephone number on buying such a service,
- e) **notify the subscriber a substantial change of the contractual conditions and at the same time inform him on his right to back out of the contract on connection without penalty if he does not accept these changes, at least a month in advance.**

(4) The subscriber shall be obliged to:

- a) use the public service in accordance with this Act, the Contract on Connection, and the General Conditions,

- b) pay the price for the provided public service according to the Contract on Connection and the Tariff and, if the nature of service allows it, only on the basis of the submission of billing document,
- c) use only the telecommunications facilities meeting the requirements stipulated by special regulations.

(5) The undertaking shall not interrupt or restrict provision of the universal service under Section 50, Subsection 2, Letters a), b) d) and f), in case the subscriber is behind with obligations resulting from other contractual relations with the undertaking.

(6) In case of a crisis situation and extraordinary event¹³⁾, the necessary measures for operation and provision of public network, public service or public network and public service pursuant to this Act shall be ensured by the statutory body of the undertaking, pursuant to special regulations on protection and civil defence of citizens. The undertaking providing public network, public service or public network and public service is obliged, in the extent necessary for handling of crisis and extraordinary situations in the affected territory:

- a) **to provide the public service preferentially for subscribers classified in the preferential emergency plans; the Government shall lay down by its regulation the extent of classification of subscribers in the preferential emergency plans and the extent and way of preferential provision of public service,**
- b) to ensure preferential operation of public pay telephones including emergency calls.

(7) The subscriber classified in the preferential emergency plans shall be the authority of state administration and local administration, armed forces, armed security corps, rescue units, the subject of economic mobilization and the subscribers whose position and function in the rescue system during emergency situations and extraordinary situations are non-substitutable (hereinafter as the „classified subscriber“).

(8) Preferential emergency plans mean a set of technical and organizational measures, which enable to provide public service to the classified subscribers even in case of limitations occurred in the network.

(9) The undertaking is authorised, during emergency situation and extraordinary situation, to restrict the provision of public service to subscribers who are not classified in the preferential emergency plans in the extent necessary to provide for the provision of preferential public service to subscribers classified in the preferential emergency plans.

Section 43 Contract on Connection

(1) By a Contract on Connection the undertaking shall commit themselves to install the necessary access to the public telephone network or other public network and make the related services available for the customer. The Contract on Connection shall include the General Conditions and the Tariff.

(2) The substantial parts of the Contract on Connection are the agreed type of the public service, place of its provision, and the price. If the period of the service provision is not determined in the contract, the service shall be provided for an indefinite period of time. The price may also be agreed with reference to the Tariff.

(3) The Contract on Connection shall expire:

- a) upon expiration of the term for which the contract has been concluded,
- b) by mutual agreement of the contracting parties,
- c) by withdrawal,
- d) by termination,
- e) if stipulated so by a special regulation.

(4) The subscriber may back out of the Contract on Connection without penalty, if the undertaking:

- a) notifies him of a change in the terms of the Contract, 30 days before it comes into force at the latest, and the subscriber does not accept the change,
- b) **did not notify him a substantial change of contractual conditions at least a month beforehand, or did not inform him at least a month beforehand about his right to back out of contract on connection without penalty if he does not accept these changes,**
- c) repeatedly fails to provide the public service in line with the Contract or has provided it with substantial faults, even after claim,
- d) repeatedly fails to eliminate the fault of the public service under claim within the set period.

- (5) The undertaking may back out of the Contract on Connection, if the subscriber:
- a) repeatedly interfered with the facilities of public network without authorisation, or enabled such interference to a third party, even due to negligence,
 - b) failed to pay the price of the service provided within 45 days following the due date,
 - c) connected equipment not meeting the requirements of the special regulations to the public network or uses such equipment in contradiction to the approved conditions and did not disconnect it even upon the request of the undertaking,
 - d) repeatedly used the public service in a way preventing the operator to control its use,
 - e) repeatedly violated the terms of the Contract on Connection.

(6) The subscriber may terminate the Contract on Connection concluded for an indefinite period of time for any reason whatsoever or without stating a reason.

(7) The undertaking may terminate the Contract on Connection, if it cannot continue in provision of the public service in the agreed extent or the necessary quality due to technical unfeasibility of further service provision, with the exception of the universal service provision. In case the undertaking terminates the contract due to upgrade of the public services, which is connected with the termination of the provision of the public service under the concluded Contract on Connection, it shall be obliged to submit the notice of termination to the subscriber together with an offer for provision of another public service, similar from the technical and price viewpoint, with its discounted installation.

(8) The notice period shall be stipulated in the General Conditions and shall be the same for both contracting parties.

Section 44 Claims Proceeding Rules

- (1) In the claims procedure rules, which shall be a part of the General Conditions, the undertaking shall set out:
- a) details on the scope of the rights of user to claim accuracy of the payments and quality of the public service,
 - b) the way of making claims and settlement thereof,
 - c) the period for the submission of claims and settlement thereof,
 - d) the way of exercising subscriber's right referred to in Section 42 Subsection 2, Letter e),
 - e) other details on claims procedure.

(2) The claim shall be made to the undertaking that provided the service. If the claim was submitted to the Office, the Office shall forward this claim without delay to the undertaking against which the claim is addressed. The right of claim may not be restricted in the claims procedure rules, provided it was lodged within the period stipulated in the claims procedure rules; such period may not be shorter than 30 days. The undertaking shall be obliged to inform the subscriber in writing on the results of the examination of its claim within the period set forth in the General Conditions, which shall last no longer than 60 days, otherwise the claim shall be deemed to be recognised.

(3) Claims with respect to review of payment shall not have a postponing effect on payment for the provided public services. If the price exceeds three times the average extent of use of the public service for the preceding six months, the undertaking shall be obliged to enable the subscriber to postpone the payment of the part of the price exceeding the average monthly extent of use of the public service for the preceding six months until the end of the examination of the telecommunications equipment at the latest, or to enable the subscriber to pay the part of price exceeding three times the average extent of use in maximum of three instalments. If the use of the service was shorter than six months but longer than one month, the average extent of use of the service shall be calculated for the whole period of use of service.

(4) If, upon a claim, a defect on the telecommunications equipment is detected, which could prove to be to the detriment of the subscriber, but the scope of the provided public service or the price for providing it cannot be provably determined, the subscriber or end-user shall pay the price corresponding to the price for the average monthly extent of use of the public service for the preceding six months. If the use of the service was shorter than six months but longer than one month, the average extent of use of the service is calculated for the whole period of use of service.

(5) If proved that the claim was submitted without any reason and the subscriber has not met the condition for the postponement of payment pursuant to Subsection 3, the undertaking shall be entitled for interests on late payment as of the due date of claimed payment.

Section 45

Quality of Services

(1) The Office is entitled to specify measurable quality indicators of the public service for end-users, the content, form and way of publishing information on quality.

(2) Undertakings providing the public service shall be, on the basis of measure taken by the Office, obliged to inform the Office, at its request, on the quality level of this service they achieved, pursuant to Subsection 1, and to publish this information in an appropriate way so that it is comparable, in adequate extent and up-to-date. If necessary, the details on quality set by the Office under Section 51, Subsection 4 will be used.

Section 46

Accounting of some Undertakings and Financial Reports

(1) An undertaking providing public network, public service or public network and public service shall be obliged to keep separated accountancy of costs and revenues from provision of networks, services or networks and services, in the extent necessary for structurally separated and legally independent undertaking, so that all costs and revenues from those activities with their respective calculation supporting materials and detailed calculation methods, including detailed breakdown of fixed assets and structured costs could be identified, if:

- a) it has special or exclusive rights for provision of services in other sectors than the sector of electronic communications within the European Economic Area,
- b) its annual turnover for a closed accounting period from the provision of networks, services or networks and services in the entire territory of the European Union was at least SKK 2 000 000 000 or its equivalent in EUR.

(2) Turnover, for the purposes of this Act, shall mean the receipts and revenues of the undertaking from the provision of public network, service or network and service.

(3) The undertaking providing public network, public service or public network and public service exclusively in the territory of the Slovak Republic and conducting business also in other market than the relevant market of the electronic communications sector, shall be obliged to keep separate accounting records of costs and revenues from the other activities in order to avoid cross-financing of other activities so that the services could not be made preferential or disadvantageous by re-distribution of costs and revenues from other activities, and vice versa.

(4) The undertaking providing public network, public service or public network and public service, which is not legally obliged to perform independent auditing, shall be obliged to provide its financial statements²⁴⁾ to the Office for inspection, upon request. The Office shall be entitled to examine those statements and publish the result.

Section 47

(deleted)

Section 48

Number Portability

(1) The undertaking providing public telephone service, including mobile services, shall be obliged to ensure that any user, who requests so, will be able to retain his telephone number regardless of the undertaking providing service in case of:

- a) geographic numbers within the geographically defined numbering area determined by the Office at the specific location of connection of the subscriber, and**
- b) non-geographic numbers at any location.**

(2) Provision of Subsection 1 shall not apply to number portability between fixed and mobile public networks.

(3) The Office shall be obliged to ensure that the prices for interconnection in ensuring number portability are cost-oriented and, if users are required to pay direct payments for services related to number portability, the prices should not act as a disincentive for the use of these services.

(4) Details in relation to ensuring of number portability shall be stipulated in a generally binding legal regulation issued by the Office.

²⁴⁾ Section 17 of Act No. 431/2002 Coll. on accounting.

Section 49
Installation and Operation of Special Electronic Communications Networks

- (1) A special network is not a public network. It is established and operated only for a specified group of persons and for special purposes, in particular for the purposes of state defence, state security and the protection of public order, life, **public** health and property.
- (2) The right to establish and operate special networks shall be vested to the Ministry of Defence, **the National Security Authority**, the Ministry of Interior, and the Slovak Intelligence Service.
- (3) The operators providing special communications networks shall neither provide public services nor enable provision of such services by means of special communications networks to third parties.
- (4) Connection of a special communications network to a public network shall be performed only in case it is an important state interest, and on the request of the operator of special communications network. The operator of public communications network shall be obliged to satisfy the justified request, if technically feasible.
- (5) **The use of frequency spectrum allocated in the national table of frequency allocations for the purposes of defence and state security shall be planned by the Ministry of Defence.**
- (6) Only Sections 66 to 70 shall apply to special telecommunications networks.

CHAPTER TWO
UNIVERSAL SERVICE

Section 50

- (1) **The universal service means a minimum set of services, which are available in the specified quality in the whole territory of the state to all end-users regardless of their geographical location and at affordable price, which is the price taking account of the consumer price level and incomes of inhabitants.**
- (2) **The subject of the universal service shall comprise the following obligations:**
 - a) **access to public telephone network at a fixed location and access to a public telephone services at a fixed location of connection to network, including facsimile transmission of information and transmission of data at transmission rates allowing functional Internet access taking account of prevailing technologies used by the majority of users and technological feasibility,**
 - b) **provision of at least one comprehensive telephone directory of subscribers regularly updated at least once a year, in an electronic or printed form, or in both forms, approved by the Office; the comprehensive telephone directory contains data on all subscribers of public telephone services, excluding those who requested for non-publishing of their personal data and telephone number. The comprehensive telephone directory shall be provided to the subscriber upon his application in the form approved by the Office,**
 - c) **providing for reasonable availability of public pay telephones,**
 - d) **provision of free of charge and uninterrupted access to emergency call numbers, including the single European emergency call number “112“, including access from public pay telephones without using any means of payment,**
 - e) **provision and operation of at least one comprehensive telephone directory inquiry service,**
 - f) **providing for access to publicly available telephone services for healthily disabled users and reasonable availability of public pay telephones with barrier-free access and special equipment.**
- (3) **The details of providing public pay telephones and services for disabled users shall be provided by a generally binding legal regulation, which shall be issued by the Office.**
- (4) **Based on the result of the consultations, the Office shall designate one or more undertakings to provide the universal service and impose on them the obligations pursuant to Subsections 1 and 2 so that the whole territory of the state shall be covered, so that the Office may designate different undertakings or a group of undertakings, which shall provide only some obligations of the universal service, cover different parts of the state territory or provide for only some obligations of the universal service and cover different parts of the state territory.**

(5) The Office may cancel or not to impose the obligation pursuant to Subsection 2, Letter c) on the whole state territory or part of the state territory if, based on the consultations, it concludes that public pay telephones or comparable services are generally available.

(6) At designating the undertaking pursuant to Subsection 4, the Office shall proceed under Section 6, Subsection 4 while no undertaking shall be excluded from this possibility. The Office shall take into account especially financial, technical, professional conditions of the undertaking and the undertaking's capability to provide the obligation of universal service in a cost efficient manner and in required quality.

(7) The undertaking providing public telephone service shall provide the designated undertaking, which has obligations pursuant to Subsection 2, Letters b) and e), with updated data on its subscribers in the agreed form. The undertaking having obligations pursuant to Subsection 2, Letters b) and e) shall handle this data in a non-discriminatory manner; in particular, it is forbidden to give preference to information about own subscribers on the detriment of information on subscribers of other undertakings providing public telephone services.

(8) The undertaking assigning telephone numbers to subscribers shall, on request from other undertakings or other persons who publish telephone directories of subscribers or provide general directory inquiry services, provide them with its subscriber directory in the agreed form under conditions that are fair, objective, cost oriented and non-discriminatory. If the undertakings providing public telephone service or an undertaking and other person who publishes a telephone directory do not come to an agreement on the provision of data within the period of six weeks from the delivery of the request of one of them, any of the parties may ask the Office for the decision. The Office is obliged to decide on the matter.

(9) The Office shall notify, without delay, to the European Commission the undertakings designated to provide the universal service and any changes in the provision of the universal service.

Section 51

Quality of the Universal Service

(1) The quality indicators as well as the target values shall be specified by the Office in accordance with the guidelines of the European Commission, and taking into account the state of technology and the economic conditions so as to ensure access to comprehensive, comparable and clear information for the end-users. The quality of the universal service shall be determined especially by the following indicators:

- a) supply time for initial connection,
- b) fault rate per subscriber line,
- c) fault repair time,
- d) unsuccessful calls,
- e) call set up time,
- f) response time for directory inquiry service,
- g) coin-operated public pay telephones in working order, card-operated public pay telephones in working order or coin and card public pay telephones in working order,
- h) bill correctness complaints.

(2) The undertaking providing the universal service shall be obliged to inform the Office and publish results achieved in relation to quality indicators of networks, services or networks and services.

(3) The Office shall be entitled to perform or to have performed, at the cost of undertaking, the independent verification of quality indicators in order to ascertain the correctness and comparability of provided information, in case the undertaking repeatedly fails to achieve the target values.

(4) Details concerning the quality indicators and target values, including details on the form, extent, content, and the way of publishing the information shall be stipulated in a generally binding legal regulation issued by the Office

Section 52

Control of Expenditures on Universal Service by User

(1) The undertaking providing the universal service must not charge prices exceeding the framework of the universal service provision so that the user does not have to pay for equipment or service which are not necessary or not required for the service requested.

(2) The Office shall be entitled to oblige the undertaking providing the universal service to provide its user with the following services in order to enable them to control their expenditures, in particular:

- a) free of charge barring of outgoing calls of certain types or calls to certain **types of** numbers, mainly to bar, on the user's request, access to public service content of which could endanger the moral education of the youths,
- b) possibility of advance payment for the connection to the public telephone network and use of public telephone services,
- c) possibility to pay for the installation of connection to the public telephone network in instalments.

Compensation of Net Costs for Universal Service

Section 53

(1). The undertaking providing the universal service shall have the right for compensation of identified net costs related to performing of the universal service obligation, if its revenues from the service are lower than costs provably needed for the provision of universal service. The undertaking can file the application with supporting documents for the net costs compensation to the Office within two years after the closing of financial year in which they were arisen. The right for compensation shall expire after this deadline.

(2) **Based on the undertaking's application containing supporting documentation for the calculation of the net costs, the Office shall assess if the undertaking provides for the obligations resulting from the provision of universal service by cost oriented manner, and if this provision is an inappropriate burden for the undertaking.** These supporting documents can be verified by a person authorised by the Office having an expert capability and being independent from both parties concerned.

(3) The Office shall calculate the net costs taking into account any market benefit that the particular undertaking gains by the obligation of universal service provision. The procedure of designation of the undertaking for provision of the universal service obligation pursuant to Section 50, Subsection 4 can also be used for determination of net costs. The Office shall publish the calculated net costs.

Section 54

(1) In case of need, the Office shall establish and administer a special universal service account (hereinafter as "special account") for compensation of net costs; undertaking providing public networks, public services or public networks and public services whose annual turnover share on the domestic market of public network, public service or public network and public service is equal or exceeds 0,2 percent is obliged to contribute to this account; **the revenues from providing retransmission services shall not be included into the turnover^{24a)}.**

(2) The Office shall determine the amount of contribution to the special account for every undertaking separately. The amount of the contribution shall be derived from the share of annual domestic turnover from provision of public networks, public services or public networks and public services in a relevant financial year; **the revenues from providing retransmission services shall not be included into the turnover^{24a)}.**

(3) If the special account of the universal service is established pursuant to Subsection 1, the relevant undertakings shall be obliged to inform the Office, annually upon request, on their turnovers in the particular market, also with retroactive effect. For this purpose, the Office shall be entitled to inspect, either by itself or by means of an authorised independent auditor, the accounting books and records and make estimation.

(4) The Office shall annually publish the report on economic activity of the special account, which shall include the amount of net costs, market benefits that the designated undertaking gained by the universal service provision and specified contributions of particular undertakings.

(5) The undertaking shall be obliged to use the reimbursed contribution from the special account solely for covering the net costs that have arisen from the relevant universal service obligation.

(6) Undertaking contributing to the compensation of net costs shall be obliged to pay its share of contribution to the special account stipulated by the Office within three months. The payment period shall commence on the day the

^{24a)} **Section 3, Letter c) of Act No. 308/2000 Coll.**

decision comes to force. In case the undertaking with the obligation to contribute is late with the payment for more than four weeks, the Office shall start to claim the unpaid contribution.

(7) Details on the universal service, on establishment and administration of the special account shall be defined by the generally binding legal regulation issued by the Ministry.

PART FOUR PROTECTION OF PRIVACY, DATA AND BUSINESS CONFIDENTIALITY

Section 55

(1) The protection of privacy includes the subject of telecommunications privacy, which shall be related to:

a) information and data received, conveyed, mediated, and stored during provision of services, in particular the contents of the information conveyed and location data (Section 59, Subsection 6),

b) data of communicating parties, which are business name and seat of a legal entity, or business name and place of business in case of an entrepreneur – natural person or personal data of a natural person, which are name, surname, academic degree and address, and category of access to network; data published in the directory of subscribers are not subject to telecommunications privacy,

c) traffic data related to public service.

The rights and obligations connected with personal data protection, which are not regulated by this Act, are governed by the special regulation^{24b)}.

(2) Everybody who comes in contact with the telecommunications privacy in provision of the networks and services, while utilising services or by coincidence shall be obliged to keep it secret.

(3) The subject of telecommunications privacy may be disclosed to the Office and person concerned, to their authorised representatives or legal successors; under conditions stipulated by special regulations²⁵⁾ the subject of telecommunications privacy shall be disclosed to the state authority, which within the scope governed by special regulations fulfils tasks in the field of constitutional system protection, internal order and security of the state, state defence, as well as to armed security corps and armed corps carrying out the tasks of public order protection and investigation of unlawful acts, and to bodies acting in criminal proceedings for the purpose of examination, investigation and prosecution of crimes or unauthorised use of telecommunications facilities.

(4) Listening, tapping, and storing of information transmitted via networks conducted by other persons than the communicating persons shall be forbidden, except for a method contractually agreed with the user or as a part of exercising the statutory authorisation of designated state authorities. This ban shall not apply to information concerning:

a) originators of malicious calls,

b) originators disseminating alarming or threatening information,

c) originators of calls misusing the service by using communications facilities for their benefit to the detriment of the undertaking or third parties,

d) telecommunication facilities, from which calls under Letters a) to c) were made.

(5) The undertaking providing public telephone service shall not perform listening, recording, tapping, storing, and interception the information conveyed or hand-over information to anybody without the consent of all users concerned. That does not apply to recording and tracking of telephone calls in case of the reception of an emergency call and in case of malicious call identification. The undertaking shall not be liable for the protection of the information conveyed, if such information can be directly heard or obtained without protection at the place of broadcasting or reception.

(6) The undertaking shall be obliged to:

a) co-operate with the Police Corps and other authorities active in criminal proceedings in investigation of malicious calls and of disseminating alarming information pursuant to Subsection 4,

b) provide necessary co-operation to courts, prosecutors and other state administration authorities pursuant to special regulations²⁵⁾ and provide them free of charge, on the base of a written request and in line with the respective regulations, with information, which is subject to telecommunications privacy or to which protection of personal data applies, if the provision of the information or data is necessary for fulfilment of particular tasks of these bodies under

^{24b)} Act No. 428/2002 Coll. on Protection of Personal Data as amended by later regulations.

²⁵⁾ Act No. 166/2003 Coll., Section 88, Subsection 9 and 10 of the Penal Code.

the Act; the operator's employees shall be obliged to keep confidentiality with respect to the provision of information or other co-operation.

(7) Undertaking providing public networks, public services or public networks and public services shall be entitled, in order to protect their activities, to provide each other with and exchange the necessary data in the extent of **Section 57, Subsection 2**, if such information relates to their debtors or to persons about whom the undertaking has found out that they stole or damaged telecommunications facilities or misused telecommunications facilities or services, for the purpose of assessment referred to in Section 43, Subsection 1, Letter c point 2 and for the more effective protection of undertakings against such persons.

(8) The undertaking shall be entitled to collect and process the data that is subject to telecommunications privacy pursuant to Subsection 1 only for the purpose of service provision and purpose stipulated in Subsection 6.

Section 56

(1) **The undertaking providing public networks, public services or public networks and public services, using coding, compression, encryption or other way of keeping secrecy of the conveyance of signals, shall provide for at its own expense, that the information acquired during the listening and recording of traffic in networks is provided, in a comprehensible way, to state authorities or authorities acting in criminal proceedings.** The Office shall, on the basis of proposal from a state body, issue a list of facilities used for coding, compression, encryption or similar facilities which shall be forbidden to connect to the network.

(2) The undertaking which acted pursuant to Section 13, Subsection 2, Letter j) is entitled to categorise the costs for providing for and the connection of a facility for listening and recording of traffic in networks as tax expenditure²⁶⁾ and to depreciate tangible fixed assets.

Section 57

Security and Protection of Personal Data in Network Operation

(1) An undertaking shall be obliged to adopt appropriate technical and organisational measures for protection of its networks, services or networks and services, which shall, with respect to the state of technology and costs of implementation, ensure security at the level appropriate to existing risk.

(2) The undertaking providing networks, services or networks and services may acquire and process data of **subscribers**, which are, in addition to data pursuant to Section 55, Subsection 1, Letter b), also the birth registration number, number of identification card or of any other identity document, nationality **and the amount of unsettled liabilities**, only for the purposes of:

- a) concluding, performance, change or termination of the contract,
- b) billing and registration of receivables,
- c) elaboration of directories of subscribers,
- d) provision of information within activities of co-ordination and operation centres of emergency calls²⁷⁾,
- e) co-operation and provision of collaboration pursuant to Section 55, Subsection 6.

(3) The undertaking shall erase personal data without delay upon termination of contractual relations. Exceptions are possible only for the purposes of billing or entering of payments, registration, and enforcement of receivables of the undertaking for the provided service, for handling of users' requests or in order to comply with other legal obligations and to exercise rights.

(4) Transfer of personal data shall be possible only if it is necessary for the provision of the service, for which the data were requested, collected, and processed. Evaluation of personal data for the purposes of the introduction of service into the relevant market or provision of value added services, as well as other information transfers may be performed only on the basis of consent of the concerned person; such consent may be revoked at any time. Consent of the concerned person shall be any explicit and distinctive expression of free will, in which the concerned person expresses consent with the processing of his/her personal data. The undertaking may not condition the provision of its services by such consent.

²⁶⁾ Act No. 595/2003 Coll. on Income Tax.

²⁷⁾ Section 10 of Act No. 129/2002 Coll. on Integrated Rescue System.

(5) An undertaking shall be obliged to inform the subscriber about what personal data shall be obtained and processed, on the basis of what legal document, for what purpose and for how long the data will be processed. Such information shall be provided in an appropriate form within the General Conditions, not later than on the date of concluding the Contract on Connection.

(6) In case of existence of a special threat to security of the network, the provider of publicly available services shall be obliged to inform concerned subscribers on such threat and possible remedies, including expected costs necessary to avert the threat.

(7) The one who uses the network for data storage or acquiring data stored on the end-user's terminal shall provide, in advance, the user with the information pursuant to Subsection 5 and offer him the right to refuse such processing. This is without prejudice to technical storage or access, of which the only purpose is the conveyance or facilitation of conveyance of a message through electronic communications network, or if it is unconditionally necessary for providing information society service, which is explicitly requested by the subscriber or the user.

Section 58 Protection of Business Confidentiality by the Office

(1) The employees of the Office shall respect confidentiality of facts that are subject to business confidentiality on which they were informed.

(2) The Office is entitled to request the undertaking to submit a written reasoning of information or documents being classified as business confidentiality and to provide such wording of information and documents, which does not contain business confidentiality.

Section 59 Traffic and Location Data

(1) Traffic data shall be any data related to users, processed for the purpose of transmission in the network or for the purposes of billing. They shall include mainly telephone numbers, address of user, type of the terminal equipment or other facilities, tariff code, total number of call units billed in the billing period, type, date, time and duration of connection, volume of transmitted data.

(2) Traffic data shall not be stored without consent of the concerned persons and the undertaking shall be, after end of the connection, obliged to erase them immediately or make them anonymous; this shall not be the case when the entitled state body or authority acting in criminal proceedings ask for the data.

(3) If it is necessary for billing and accounting of payments, including prices for interconnection of networks, the undertaking shall store the traffic data until the expiration of the period, during which the bill may be legally challenged or the claim for compensation may be asserted. The undertaking is obliged to provide traffic data in unabridged extent to the Office or to the court in case of dispute. In case a claim or out-of-court dispute resolution has started, concerning the amount of payment or quality of services, the traffic data shall be stored until the results of investigation of the claim are announced or until the Office concludes the out-of-court dispute resolution (Section 73). The scope of stored traffic data must be limited to the inevitably necessary minimum.

(4) Traffic data may be processed only by persons authorised for management of operation of a network, service or network and service or persons authorised by them, namely for the purposes of billing, answering requests of users, investigation of **unlawful acts**, for marketing purposes or for provision of value added services. The scope of used traffic data must be limited to the indispensable minimum.

(5) The undertaking shall not process traffic data on the user on the basis of telephone numbers called from his/her access to the network, except for their processing for the purposes of billing, unless otherwise stipulated by this Act. The undertaking may use the data for marketing purposes only with consent of the user. **In this case, the undertaking is obliged to inform the user, prior to acquiring his consent, on the type of traffic data, the purpose of processing of traffic data and on the period of processing this data. At any time, the user may withdraw his consent he has given for the processing of traffic data for the marketing purpose.**

(6) Location data shall be any data processed in the network indicating the geographic location of terminal equipment of the user of publicly available service. The location data, other than traffic data may be processed only if they are made anonymous or with the consent of the user of public network or service, and in the scope and time necessary for provision of the value added service. The undertaking providing the service shall be obliged to inform user, prior to obtaining his/her consent, on location data other than traffic data, which will be processed, on the purpose and duration of their processing, and whether they will be transmitted to third parties for the purposes of provision of a value added service. The user shall have the possibility to revoke his/her consent for processing of location data anytime.

(7) If the user has given his consent to the processing of location data, other than traffic data, the undertaking providing the services shall be obliged to provide the user with the possibility to temporarily refuse processing of location data for every connection to the network or for any transmission of message in a simple way and free of charge.

(8) Procession of location data in line with Subsections 6 and 7 shall be limited to persons acting upon authorisation of the undertaking providing public networks, public services or public networks and public services or to persons of third parties providing value added services and shall be limited to necessary purposes of provision of value added services.

(9) In case of emergency calls the undertaking shall be obliged to provide **free of charge** the co-ordinating or operational centre of integrated rescue system, provided it is technically feasible, with the presentation of calling line identification and location data even in case when the calling line restricted the presentation of calling line identification or has not given consent with the processing of location data. The co-ordinating or operational centre of integrated rescue system, from the moment the requested data were provided, shall be liable for the damage caused by the misuse of information provided on personal or location data.

Section 60 **Storing of the Content of Transmitted Information**

(1) The storing of the content of transmitted information shall be forbidden, unless the storing of the content forms substantial part of the service. Should a short-term storing of the content be necessary for technical reasons, the undertaking shall be obliged to erase such stored information immediately after termination of the reason for their storing.

(2) The undertaking shall be obliged to adopt technical and organisational measures in order to ensure that the content of transmitted information shall not be stored at all, or shall be stored in a minimum extent, which is inevitably necessary due to technical reasons. Should the storing of the content of the information be a feature of the service, the undertaking shall be obliged to erase such information immediately after termination of service provision.

Section 61 **Protection of Data from the Directory of Subscribers**

(1) The subscriber has, with respect to the undertaking with which he/she is in a contractual relation on the provision of public telephone service, the right of publishing, free of charge, personal data in the subscriber directory of this undertaking. The subscriber has the right to check his/her record, modify it or have it deleted.

(2) Other data may also be stated in the subscriber directory with the consent of the subscriber. If other persons are concerned herewith, they must agree with the publishing of their personal data.

(3) If the subscriber so requires, the undertaking shall be obliged not to publish his/her personal data in the subscriber directory and the data must neither be passed over nor communicated to another undertaking or persons pursuant to Section 50, Subsection 6 and to a third party or provided by operator-assistance service; the rights of the authorised state authorities shall not be affected herewith.²⁵⁾ The undertaking must not require compensation for not publishing the subscriber in the directory of subscribers.

(4) The data included in the directory of subscribers may be used and processed by the undertaking only for the purposes of public telephone service provision. Any other use is allowed only with the consent of the subscriber concerned. The undertaking shall be obliged to adopt appropriate technical measures by which it will make the copying of electronic directories of subscribers impossible.

(5) As for the data related to a single subscriber, the ban on their use pursuant to Subsection 4, shall not be applied in case of a request of a court related to investigation and prosecution of a crime. The undertaking shall be obliged to

adopt such technical and organisational measures as to meet such requests also with respect to data, which is, pursuant to Subsection 3 not published in the directory.

Section 62 Identification Presentation

(1) If the undertaking offers the service of identification presentation of:

- a) the calling line on the terminal equipment of the called party, the undertaking shall, with the exception of emergency calls, offer the calling party the possibility to restrict the presentation of the calling line identification, simply and free of charge, for each individual call; the calling party must have the possibility to restrict the presentation of the calling line identification by a one-off setting for all calls,
- b) the calling line, the undertaking shall offer the called party the possibility to restrict the presentation of the calling line identification for incoming calls, simply and free of charge for reasonable use of this function,
- c) the calling line, and if such service is activated, the undertaking shall offer the called party the possibility **simply** to reject those incoming calls, for which the calling party restricted the presentation of the calling line identification,
- d) the connected line of the called party on the terminal equipment of the calling party, the undertaking shall, with the exception of emergency calls, offer the called party the possibility to restrict the presentation of the connected line identification on the terminal equipment of the calling party, simply and free of charge,
- e) the calling line or connected line, the undertaking shall be obliged to inform about the possibility of the presentation and the restriction of the presentation of calling line identification and connected line identification in its General Conditions.

(2) The provider of public network or publicly available service shall be entitled to cancel:

- a) the restriction of the presentation of calling line identification, on a temporary basis, upon application of a subscriber in order to monitor malicious or nuisance calls,
- b) the restriction of the presentation of calling line identification and dissent of a subscriber with processing of location data in case of calls to emergency lines.

(3) The undertaking is obliged to ensure the service of the presentation of calling line identification pursuant to Subsection 1 for subscribers connected to a digital exchange. This obligation also relates to subscribers connected to an analogue exchange, provided it is technically feasible and it does not involve excessive costs. The Office shall inform the European Commission on cases, in which it is not technically feasible to offer the service pursuant to Subsection 1 or it involves excessive financial costs according to reasoned documentation from the undertaking.

Section 63 Automatic Call Forwarding

(1) The undertaking, at providing services enabling call forwarding shall be obliged to enable all users to stop, by themselves, free of charge and in a simple way, the automatic call forwarding to their terminal equipment, which was initiated by a third party.

(2) The obligation of the undertaking pursuant to Subsection 1 relates to subscribers connected to digital exchange as well as analogue exchange in cases, when it is technically feasible and it does not involve excessive costs. The Office shall inform the European Commission on cases, in which it is not technically feasible to offer the service pursuant to Subsection 1 or it involves excessive financial costs according to reasoned documentation from the undertaking.

Section 64 Malicious Call Identification

(1) Malicious call identification means the identification of the calling line number independently of the will of the calling party.

(2) If subscribers request the undertaking to monitor calls for the purpose of malicious call identification, the undertaking shall provide for identification of the calling line number or cancellation of the restriction of presentation of calling line identification for future calls. The undertaking is entitled to charge such service.

(3) Should the subscriber get convinced about malicious calls in the course of their monitoring, and the undertaking finds out the identification of the calling line number, it shall inform the subscriber about it.

Section 65
Unsolicited Communication

(1) Electronic mail means any text, voice, sound or image message sent over public network, which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient.

(2) Calling, sending of facsimile messages, electronic mail messages, including SMS messages to a user for the purpose of direct marketing shall only be allowed with his/her prior consent. The consent of person authorised by the user for use of its access to the network shall be considered as the consent of the user. The consent given may be revoked at any time. Sending of electronic mails for the purposes of direct marketing, from which the address to which a user may send a request to cease mailing of such messages and identity of the sender is unknown, shall be prohibited.

(3) The prior consent of the user shall not be requested in case of direct marketing of the undertaking's own goods and services to the user whose contact information for delivery of an electronic mail the undertaking has acquired in the context of selling goods or services and in accordance with this Act or a special regulation^{24a)}. The user shall be offered the possibility to refuse such use of data at any time, simply and free of charge.

PART FIVE
PROTECTION OF NETWORKS AND FACILITIES

Section 66
General Obligations

(1) Everyone shall be obliged to perform its activities so as to avoid damaging of lines and interference with operation of networks, services or networks and services and avoid encroachment of **network and** service provisioning, otherwise he/she shall be responsible for damage incurred to the undertaking.

(2) Owner or user of real estate shall be obliged:

- a) to take care so that use of real estates does not cause damage to networks and facilities and does not interfere with the operation of lines, especially aerial and underground cable lines,
- b) to maintain coppices in the protective zones so that they does not endanger safety and reliability of the lines.

Section 67
Protective Zones

(1) A protective zone is established for protection of lines. **The protective zone shall start to exist on the day when the decision on the construction placement of the respective Office of Construction becomes effective or on the day of the delivery of notification of a petty construction^{27a)}.**

(2) The protective zone of the line shall be 1,5 m wide, starting from the axis of the route of the line and running along its entire length. The depth and height of the protective zone shall be 2 m measured from the ground level in case of underground cables and within radius of 2 m in case of aerial cables.

(3) The following shall be forbidden within the protective zone:

- a) place structures, facilities and plant coppices, or perform ground works which could endanger the lines or secure operation of the network,
- b) perform service activities connected with the use of machinery and equipment interfering with operation of the networks and the associated facilities and services.

(4) Relocation of lines caused by construction activities of third persons can only be performed after an agreement and under conditions agreed with the undertaking. Costs of such relocation shall be covered by the constructor, unless agreed otherwise. Should the line be simultaneously upgraded, the costs of upgrade shall be covered by the undertaking.

Section 68
Protection from Interference

(1) Networks and facilities shall be installed and operated so as to avoid harmful interference.

^{27a)} **Section 32, Letters a) and c), and Section 55, Subsection 2 of Act No. 50/1976 Coll.**

(2) The electromagnetic disturbance arising from the operation of electrical and electronic facilities containing electrical or electronic components shall not exceed the level above which facilities cannot operate as intended.

(3) Facilities shall be constructed so as to have an adequate level of intrinsic immunity to electromagnetic disturbance, allowing them to be operated as intended.

(4) If harmful interference or disturbance preventing the facility to operate as intended occurs, the undertaking or user of the facility causing interference shall be obliged to take efficient protection measures without delay or to terminate operation of such facility. If it is not possible or if it is more efficient or effective to take protection measures on facility that is subject of interference, the undertaking shall make them. Costs of elimination of interference shall be covered by the undertaking or user whose facility causes interference.

(5) As an interference shall be considered also causing the operation impossible due to electromagnetic shielding or reflections of electromagnetic waves from structures built after putting **networks or facilities** into operation.

Section 69 Rights and Obligations with Respect to Third Party Real Estates

(1) The undertaking providing public network shall be entitled, in the public interest and to the necessary extent, to:

- a) install and operate public networks and build their lines in third party real estate,
- b) access the third party real estates in relation to installation, operation, repair, and maintenance of lines,
- c) perform necessary adjustments of the land and its coppices, especially to remove and disbranch trees and other coppices endangering the safety and reliability of line, if the owner or user of the real estate has not done so following an advance call.

(2) The obligations corresponding to the rights pursuant to Subsection 1, **Letter a)** are an easement²⁸⁾ related to affected real estates. The undertaking shall submit a proposal for the entry to the land registry²⁹⁾.

(3) In the performance of its rights pursuant to Subsection 1, an undertaking providing a public network shall be obliged to proceed in a way not causing damage to real estates, and if such damage cannot be avoided, to restrict it to the minimum possible extent. The owner or user of the real estate must be informed about commencement of the performance of rights at least 15 days in advance. The undertaking shall be entitled to access third party real estate for reason of a breakdown, **execution of rights under the contract on connection** or fault on the line even without prior notification; in such case the owner or user shall be notified without undue delay.

(4) Following completion of inevitable works, the undertaking shall be obliged to re-establish the previous state of the real estates and if that is not possible given the nature of the work performed, to return the real estate to a state corresponding to the previous purpose or use of the real estate. If this is not possible, or if the resultant state of the real estate is worse than the original state, the undertaking shall be obliged to pay an adequate one-off compensation corresponding to the extent of limitation on the use of the real estate to the owner. **The owner of the real estate may make a claim for a one-off compensation to the respective undertaking within one year from the day of the origination of forced restriction of use of real estate; otherwise this right lapses.** Should the undertaking and owner of the real estate fail to agree on the amount of adequate compensation, each of them is entitled to file a proposal for decision to the court within six month following the day of laying claim to the undertaking in question.

(5) If, as a result of the exercise of rights of the undertaking pursuant to Subsection 1, the owner or user of the real estate is restricted from the usual use of the real estate, they he/she be entitled to an adequate one-off compensation for the forced restriction on the use of the real estate. **The owner of the real estate may make a claim for a one-off compensation to the respective undertaking within one year from the day of the origination of forced restriction of use of real estate; otherwise this right lapses.** Should the undertaking and owner of the real estate fail to agree on the amount of adequate compensation, each of them is entitled to file a proposal court for decision to the court within six month following the day of laying claim to the undertaking in question.

(6) The document necessary for territorial and construction proceedings³⁰⁾ shall be the statement of the concerned undertakings on existence of underground or aerial lines and radio links in the location of the construction and on the possibility of interference with radio transmission.

²⁸⁾ Section 151, Letter n) to p) of the Civil Code and Section 139, Subsection 1 of Act No. 50/1976 Coll.

²⁹⁾ Section 35 of Act No. 162/1995 Coll. on the Cadastre of real estates and the entry of ownership and other rights to real estates.

(7) The construction project shall contain the route of all lines laid in the place of construction. The project engineer shall be responsible for the failure to fulfil this obligation.

(8) The undertaking shall be obliged to keep records of the lines and provide, upon request, a statement, and further data necessary for fulfilment of the obligation pursuant to Subsection 6 within 15 days.

(9) The undertaking is entitled to use internal line distribution systems of third parties in constructions and premises in which public services are provided. The undertaking shall be obliged to cover real costs spent on preservation and maintenance of such distribution systems duly and appropriately to the proportion of usage. The owner of the real estate shall claim compensation of costs spent by the owner for preservation and maintenance of internal line distribution systems from the undertaking within six months after they were spent, otherwise the right shall lapse.

(10) Issuance of territorial decrees for placement of lines and construction authorisations for **lines** by public administration authorities shall not be in the conflict of interests, if these authorities also perform activities related to the ownership or operation of networks, services or networks and services.

Section 70 **Co-location and Use of Facilities**

(1) If an undertaking providing networks, services or networks and services cannot place a new line or install telecommunications facility or if it can do so only with unreasonable restrictions on the use of third party real estates, due to the need of protection of environment, public health, public security or due to objectives of town and country planning, it may request another undertaking providing networks, services or networks and services to allow it to use the existing physical infrastructure including constructions, premises and parts of lines, under non-discriminatory conditions and for compensation, unless this requires significant additional works and related costs.

(2) Conditions of use of infrastructure including constructions, premises, and parts of lines pursuant to Subsection 1 shall be agreed in a contract concluded between the undertakings. Conclusion of the contract may be rejected only on the grounds of technical unfeasibility.

(3) Should the undertakings fail to agree upon the contents of the contract, any of them shall be entitled to file a proposal for decision to the Office. If the Office decides on shared use of infrastructure, including constructions, premises and parts of lines, it shall also set rules for apportionment of costs. **The Office shall be the authority involved in the territorial or construction proceeding if the shared use of facilities is exercised in the course of this proceeding.**

PART SIX **ADMINISTRATIVE TORTS**

Section 71

(1) The Office shall impose a fine up to SKK 20 000 000 or the equivalent in EUR to the one who:

- a) provided networks, services or networks and services for which the general authorisation or individual authorisation (Section 12, Subsection 1) was not issued, or provided networks, services or networks and services despite the decision by which the Office banned their provision, cancelled the decision or banned their provision and cancelled the decision on assignment of frequencies or numbers (Section 37, Subsection 8),**
- b) failed to provide access or interconnection (Sections 21 and 28),**
- c) failed to comply with the obligation imposed by the Office in providing access or interconnection on the relevant markets to establish prices so that they covered only costs related to providing access or interconnection and the reasonable return on the invested capital based on the price calculation determined by the Office (Section 22, Subsection 1),**
- d) failed to submit the Office the reference offer for access or interconnection, or reference offer for unbundled access to the local loop (Section 18, Subsections 2 and 3),**
- e) failed to provide the universal service (Section 50, Subsections 1 and 4),**
- f) failed to stop immediately and temporarily the delivery, sale or operation of the equipment (Section 37, Subsection 6).**

³⁰⁾ Section 35, Subsection 1 and Section 60 of Act No. 50/1976 Coll.

(2) The Office shall impose the fine up to SKK 10 000 000 or the equivalent in EUR to the one who:

- a) failed to fulfil the notification obligation for providing networks, services or networks and services, where the Office determined it in the general authorisation, or the notification obligation of changes or cancellation of providing (Section 14, Subsection 1 and 2),
- b) failed to fulfil one of the conditions or some conditions of the general authorisation (Section 13, Subsection 2),
- c) failed to adopt adequate technical and organisational measures for protection of security of one's networks, services or networks and services (Section 57, Subsection 1),
- d) failed to provide for security and protection of personal data in network operation (Section 57),
- e) failed to use the price calculation method imposed by the Office, with the specification of types of costs and rules for their allocation (Section 22, Subsection 1; Section 23, Subsection 2; Section 24, Subsection 4),
- f) failed to submit reasoning for prices to the Office upon its request or failed to perform their adjustment imposed by the Office (Section 22, Subsection 3), or failed to submit the concluded contract on interconnection of networks to the Office in the determined period (Section 28, Subsection 7),
- g) failed to submit technical specifications of offered interfaces to the Office (Section 35, Subsection 1) for publishing,
- h) failed to provide some obligation of universal service (Section 50, Subsection 2) determined by the Office or infringed the obligation of non-discrimination at handling data of subscribers of other undertakings (Section 50, Subsection 7),
- i) failed to keep costs and revenues separately (Section 46, Subsections 1 or 3),
- j) breached telecommunications privacy (Section 55, Subsection 2),
- k) placed on the market or operated electrical or electronic facility that exceeds the level of electromagnetic interference above which the facilities cannot operate as intended (Section 68, Subsection 2),
- l) failed to take effective protection measures without delay or failed to stop operation of the facility where harmful interference or disturbance occurred, which prevents operation of the facility as intended (Section 68, Subsection 4).

(3) The Office shall impose the fine up to SKK 3 000 000 or the equivalent in EUR to the one who:

- a) refused to tolerate exercising of state supervision [Section 37, Subsection 3 Letter b)], failed to submit, in the required extent and in the period determined by the Office, the information necessary for application of this Act and international regulations or information required for verification of compliance with conditions of general authorisation, individual authorisation or obligations (Section 38, Subsections 1 and 2),
- b) failed to fulfil one or more obligations which were imposed, retained, changed or amended by the decision of the Office (Section 17, Subsection 1), or failed to fulfil the obligation to publish specific information (Section 18, Subsection 1), or failed to fulfil obligations imposed by the Office for protection of end-users' interests (Section 23, Subsection 1),
- c) failed to issue or publish, or failed to publish in time the General Conditions (Section 40), or failed to issue or publish, or failed to publish in time the Tariff (Section 41, Subsections 1) or issued the General Conditions in contradiction to this Act,
- d) failed provision the minimum set of leased lines or part thereof and failed to provide required provision thereof (Section 24, Subsection 3) or, in case of emergency calls, failed to provide the co-ordination or operational centre of integrated rescue system the presentation of the calling line identification and location data, in case it was technically feasible (Section 59, Subsection 9),
- e) operated or distributed radio facility or terminal telecommunications equipment without assessment of its conformance with requirements of technical regulations (Section 35, Subsection 1), or placed on the market or operated or distributed a radio facility without meeting the conditions of general authorisation or without authorisation, or without issuance of the relevant type of authorisation (Section 35, Subsection 1, 3 and 5), or in contradiction to the conditions of the authorisation (Section 32, Subsection 19),
- f) failed to provide all users with uninterrupted access to all emergency numbers, including the single European emergency call number, or the possibility of dual tone multi-frequency dialling and the calling line identification (Section 39, Subsection 2), or failed to provide for necessary measures for operation and provision of public network, public service or public network and public service during a crisis or extraordinary situation (Section 42, Subsection 6), or failed to ensure that any subscriber, upon request, could retain his/her telephone number independently of the undertaking providing the service in determined cases (Section 48, Subsection 1),
- g) failed to conclude a contract with an interested person without the reason for its refusal [Section 42, Subsection 3, Letter a)],
- h) charged prices exceeding the scope of the universal service so that the user had to pay for equipment or service which are not essential or required for the requested service (Section 52, Subsection 1),
- i) failed to contribute to the universal service special account (Section 54, Subsection 1),

- j) failed to inform annually, upon request of the Office, on its turnover in the relevant market (Section 54, Subsection 3), failed to settle the costs of tests for verification of compliance of products with technical regulations [Section 37, Subsection 3, Letter c)],**
- k) failed to enable its users to choose an undertaking on the call-by-call basis and by carrier pre-selection (Section 27, Subsection 1),**
- l) connected to the network a facility listed in the list of facilities that are forbidden to connect to the network (Section 56, Subsection 1).**

(4) The Office shall impose the fine up to SKK 1 000 000 or the equivalent in EUR to those that:

- a) failed to provide specified services free of charge (Section 41, Subsection 3) or failed to provide its users with some of defined services for the control of expenditures within the framework of the universal service (Section 52, Subsection 2),
- b) used the information that the operators received in the course of negotiation on the interconnection for another purpose or allowed its misuse by third parties in order to achieve competition advantage (Section 28, Subsection 3),
- c) operated selected radio facilities without having special professional qualification for their operation (Section 36, Subsection 1),
- d) failed to comply with the condition that public networks and associated facilities shall comply with technical standards and specifications for networks, services or networks and services (Section 39, Subsection 1) or failed to comply with the requirement of the Office for written justification of classifying information or supporting documents as subject of business confidentiality, or failed to provide their wording without the business confidentiality content (Section 58, Subsection 2),
- e) failed to publish or inform the Office on achieved results of network, service or network and service quality indicators (Section 51, Subsection 2),
- f) failed to inform subscribers about what personal data would be collected and processed, on the basis of what legal ground, for what purpose and how long the data would be processed, not later than at the concluding of the Contract on Connection (Section 57, Subsection 5),
- g) failed to erase personal data not later than on the date of termination of contractual relations (Section 57, Subsection 3),
- h) stored the traffic data after termination of the connection without consent of the person involved, or failed to erase them or make them anonymous at that time without delay (Section 59, Subsection 2), or stored the content of transmitted information, if its storing was not substantial part of the service (Section 60, Subsection 1),
- i) failed to notify the owner or user of the concerned real estate on execution of its rights related to the usage of real estates of the third parties at least 15 days in advance (Section 69, Subsection 3),
- j) failed to pay its share to the special account as determined by the Office within three months (Section 54, Subsection 6),
- k) used the compensation from the special account to cover other costs than the net costs and those other costs have not arisen due to provision of the relevant universal service obligation (Section 54, Subsection 5), or used a forbidden telecommunication facility for commercial purposes (Section 25, Subsection 3),
- l) classified the price for interconnection as business confidentiality (Section 28, Subsection 6).

(5) The Office shall impose a fine up to SKK 500 000 or the equivalent in EUR to the one who:

- a) failed to provide, upon request of the Office, information necessary in preparation and implementation of the numbering plan (Section 29, Subsection 4) or failed to provide, upon request of the Office, its financial statements for inspection (Section 46, Subsection 4) or failed to submit the necessary participation to courts, prosecution and other state authority [(Section 55, Subsection 6, Letter b)],
- b) failed to submit the Office a report on use of numbers within the period stated in the decision of the Office on number assignment [(Section 31, Subsection 4, Letter g)],
- c) failed to specify details on the scope of the user's right in the claim procedure rules for claims as to the accuracy of payment and quality of public service, the method of making a claim and settling thereof or the period for filing a claim and for settling thereof (Section 44, Subsection 1),
- d) failed to provide for the processing of traffic data only by the persons authorised to control network operation, service or network and service or by persons authorised by them (Section 59, Subsection 4), or failed to provide for the possibility, simply and free of charge, to restrict the defined identification presentation except for emergency calls [Section 62, Subsection 1, Letters a) to e)], or failed to provide for that any user had possibility, by simple means, independently and free of charge, to stop the automatic call forwarding initiated by a third party to his/her terminal equipment (Section 63, Subsection 1) or failed to provide for a malicious call identification (Section 64, Subsection 2),
- e) made a call or sent for the purposes of direct marketing, without the prior user's consent, facsimile messages, electronic mail messages including short messages by means of public network, or sent an electronic mail for the purposes of direct marketing in such a way that the sender's identity was unknown (Section 65, Subsection 2),
- f) acquired and processed personal data of users for different purpose than stipulated (Section 57, Subsection 2),

- g) processed traffic and location data of a user on the basis of telephone numbers called from his/her access to network except for their processing for the purposes of billing, or used the data for marketing purposes without the user's consent (Section 59, Subsection 5),
- h) used data included in a subscriber directory or processed them for purposes other than provision of the public telephone service without the consent of the subscriber concerned, or failed to adopt appropriate technical measures for preventing copying of subscriber directories issued in an electronic form (Section 61, Subsection 4),
- i) failed to pay for allotment or assignment, or recurring payment for use of each frequency (Section 33, Subsection 2),
- j) failed to keep a register of all users of their network [(Section 42, Subsection 3, Letter d)],
- k) failed to make available the subject of telecommunications privacy (Section 55, Subsection 3),
- l) failed to submit, in the required extent and the period determined by the Office, the documentation necessary for factual examination of an out-of-court resolved dispute (Section 73, Subsection 1).

(6) When imposing a fine, the Office shall consider particularly the nature, seriousness, manner, duration, and consequences of the breach of obligation.

(7) Fine may be imposed repeatedly for a repeated breach of obligations.

(8) Fine may be imposed within two years after the breach of obligations was identified, nevertheless no later than four years after the date of violation.

PART SEVEN FINAL PROVISIONS

Section 72 Proceedings

(1) Unless stipulated otherwise herein, general regulations on administrative proceedings³¹⁾ shall apply to proceedings pursuant to this Act.

(2) The general regulation on administrative proceedings shall not apply to:

- a) consultations (Section 10, Subsections 1 to 5) and issuance of a temporary measure (Section 10, Subsection 6),
- b) issuance of general authorisations (Section 13),
- c) notification obligation (Section 14),
- d) definition of relevant markets and analysis of relevant markets (Sections 15 and 16),
- e) determination of price calculation method (Sections 22 to 24),
- f) selection proceeding on assignment of frequencies (Section 32, Subsections 6 to 15),
- g) issuance of certificates on special professional qualification (Section 36),
- h) out-of-court dispute resolution (Section 73).

(3) The decision of the Office, pursuant to Subsection 1, may be appealed. The chairman of the Office shall decide on the appeal, on the basis of proposal of the special commission established by him.

(4) The Supreme Court of the Slovak Republic shall be competent in terms of subject matter to inspect decisions and proceedings of the Office³²⁾.

Section 73 Out-of-Court Dispute Resolution

(1) User shall be entitled to submit to the Office the dispute concerning accuracy of payment and quality of public service, especially regarding provision of the universal service, which was subject of claims procedure and whose handling did not satisfy the user. Undertaking and user as parties of the dispute proceeding shall be obliged and entitled to propose evidence and its completion and submit necessary documents required for material assessment of the case. The Office shall solve the submitted dispute with the aim to settle it and achieve agreement between the undertaking and user regarding the subject matter of the dispute.

³¹⁾ Act No. 71/1967 Coll. as amended.

³²⁾ Section 246, Subsection 2, Letter b), Civil Court Rule as amended by Act No. 424/2002 Coll.

(2) The Office shall be entitled, with a view to bringing about a settlement of the dispute, to invite expert independent of undertaking or use its own employees out-of-court dispute resolution. In the course of solving the dispute, the Office shall ensure protection of business confidentiality pursuant to Section 58.

Section 74

In disputes between an undertaking and parties from different member states of the European Union related to the field of regulation specified in Directives of the European Parliament and of the Council, the European Commission and that are under the competence of authorities of at least two member states of the European Union, the undertaking may request the Office for a solution of the dispute. The Office shall co-ordinate solving of the dispute with the concerned regulatory authorities of the member states of the European Union. The Office shall inform the European Commission on solution of the dispute.

Section 75

Dispute Resolution Between Undertakings

(1) Upon a proposal, the Office shall resolve the disputes between undertakings arisen in relation to meeting the obligations resulting from this Act. The Office shall decide the dispute within four months at the latest. Should the gravity of the case require so, the Office may prolong this period at maximum of four months.

(2) The Office may enter into the negotiations on concluding contracts on access, interconnection or shared use of equipment on its own initiative or upon request of any of contractual parties. Should the Office conclude that the proposed contracts are contradictory to this Act, it shall start a proceeding and issue a decision in the matter.

Section 76

Transitional Provisions

(1) The Telecommunications Office of the Slovak Republic under currently valid regulations shall be the Telecommunications Office of the Slovak Republic pursuant to this Act.

(2) Proceedings initiated before 31 December 2003 have to be completed pursuant to the existing legal regulations. Proceedings initiated under the existing legal regulations, not necessarily to be completed with regard to the provisions of this Act, shall be stopped by the Office.

(3) Type approved telecommunications facilities forming part of public telecommunications network, may be placed on the market by 31 December 2003 at the latest, unless the validity of decision on approval expires earlier.

(4) The licences to perform telecommunications activities issued before 31 December 2003, shall be considered as general authorisation pursuant to Section 13 and fulfilment of notification obligation pursuant to Section 14. Numbers and frequencies assigned under these licences shall be deemed an individual authorisation pursuant to Section 31 and 32 until their validity expires. The rights and obligations resulting from the licences shall remain to be valid. The Office shall change and amend these rights and obligations within nine months after the effective date of this Act, provided they are not in accordance with the provisions of Sections 6, 12 to 14, 31 to 34, 38 and 50, Subsection 4.

(5) The general authorisation issued by 31 December 2003 shall be considered as general authorisation pursuant to Section 13. Registration existing before 1 January 2004 shall be considered as fulfilment of notification obligation pursuant to Section 14, if the operator informs the Office on data stipulated in Section 14, Subsection 2 in a verifiable way by the end of February 2004, otherwise the right to perform telecommunications activities shall terminate.

(6) If networks, services or networks and services not requiring the registration pursuant to existing regulation are provided before 31 December 2003, their operators or providers shall be obliged to provide the data necessary for fulfilment of notification obligation pursuant to Section 14 to the Office by the end of February 2004, otherwise the right for provision of these networks, services or networks and services shall terminate after a lapse of the aforementioned term.

(7) The Office shall perform the first analysis of relevant markets pursuant to Section 16 within six months since the effective date of this Act. The list of relevant markets shall be defined by the Office within two months after the effective date of this Act.

(8) The rights and obligations of the operator designated by the Office before 31 December 2003 as a significant market power operator in the telecommunications market shall remain intact until the decision of the Office on the designation of significant undertaking **based on the analysis** pursuant to this Act becomes effective.

(9) The provider of the public telecommunications service that was obliged to provide the universal service before 31 December 2003 is obliged to provide this service until the decision of the Office designating the provider of the universal service becomes effective.

(10) The provider of public telecommunications service, whose licence included the obligation to provide public telegraph and telex service, is obliged to provide this service until the decision of the Office on their further provision becomes effective.

(11) Decisions on number assignment and on authorisation to operate radio facilities issued by 31 December 2003 shall be considered individual authorisations pursuant to Section 12, Subsection 1).

(12) Relations established under existing regulations by 31 December 2003 between operators of public telecommunications network and providers of public telecommunications services on one side and the users on the other, shall be considered the Contracts on Connection pursuant to this Act.

Section 76a **Transitional Provisions to Amendments Effective from 1st April 2006**

(1) Provision of Section 33, Subsection 1 and 2 shall not apply to frequencies for radio analogue or television analogue terrestrial broadcasting assigned before this Act became effective on the basis of a licence for analogue terrestrial broadcasting, during all the period of validity of such a licence. Nevertheless, the provision of Section 33, Subsection 1 and 2 shall apply to frequencies for radio or television analogue terrestrial broadcasting assigned on the basis of a licence which validity was prolonged after this Act became effective, namely from the day of its prolongation in accordance with a special regulation³³⁾.

(2) After this Act becomes effective, the Office shall not issue an individual authorisation for use of frequencies for purposes of provision a programming service by means of television analogue terrestrial broadcasting. These frequencies shall not be at disposal not even pursuant to special regulation³⁴⁾.

(3) Protective zones established before this Act became effective, as well as right and obligations resulting from them, shall be intact.

(4) Rights to real estates of third parties, as well as limitations of their use, which arose before this Act became effective, shall be intact. The real estate owner is entitled to make a claim for a compensation, which arose as a result of exercising such rights, with the undertaking, in the period specified by the previous regulations, however within one year from the day of effectiveness of this Act at the latest, otherwise this entitlement lapses.

(5) The proceeding on the designation of the undertaking for providing universal service pursuant to Section 50, Subsection 4 commenced in accordance with previous regulations shall be completed in accordance with this regulation.

Section 77 **Cancelling Provisions**

The following documents shall be cancelled:

1. Act No. 195/2000 Coll. on Telecommunications in the wording of Act No. 308/2000 Coll.,
2. Decree of the Federal Ministry of Communications No. 50/1985 Coll. by which the Order of Wire Radio was issued, as amended by Decrees No. 75/1987 Coll., No. 38/1988 Coll., and No. 314/1990,
3. Decree of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic No. 97/2001 Coll. on Minimum Set of Telecommunications Lines,

³³⁾ Section 52 of Act No. 308/2000 Coll.

³⁴⁾ Section 68, Subsection 4 of Act No. 308/2000 Coll.

4. Decree of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic No. 142/2001 Coll. setting details on selected radio facilities, establishment of the Examination Committee, on the content, extent, and procedure of the exam, and on certificates on special professional capability,
5. Ruling of the Federal Ministry of Communications No. 8691/75-T/1 by which the Telex Order was issued (registered in part No. 8/1977 Coll.), as amended by Ruling No. 34698/90-030 (registered in part No. 54/1990 Coll.),
6. Ruling of the Federal Ministry of Communications No. 9501/82 by which the Data Transmission Service Order (registered in part 36/1982 Coll.) was issued,
7. Ruling of the Federal Ministry of Communications and Federal Ministry of Transport No. 12884/84-SIE on safeguarding of underground telecommunications lines and equipment against damage by third parties encroachments (registered in part No. 1/1985 Coll.),
8. Measure of the Federal Ministry of Communications No. 9465/71-T by which the Telegraph Order was issued (registered in part No. 18/1972 Coll.), as amended by Measure No. 2537/85-T/1 (registered in part No. 8/1985 Coll.) of Ruling No. 33342/90-110 (registered in part No. 81/1990 Coll.),
9. Directive of the Federal Ministry of Communications for execution of the Construction Law in the sector of communications and on process of approval of telecommunications buildings not subject to construction permit (registered in part 32/1978 Coll.).
- 10. The measure of the Telecommunications Office of Slovak Republic No. O-8/2004, by which are defined the details on conditions of interoperability of public networks, public services or public networks and public services.**

Section 78 **Effective Date**

This Act shall enter into force on 1 January 2004, with the exception of provisions of Section 6, Subsection 3, Letter e), Section 8, Subsection 1, Letter e), Section 9, Section 10, Subsection 3 to 5, and Subsection 6th second sentence, Section 15, Subsection 3 to 4, Section 17, Subsection 4, Section 28, Subsection 2, Section 46, Subsection 1; Section 48, Section 50, Subsection 7; Section 62, Subsection 3, the last sentence and Section 74, which shall become effective on the day of entering into force of the Accession treaty of the Slovak Republic with the European Union.

The Act No. 716/2004 Coll. entered into force on the day of its publication (28 December 2004).

The Act No. 69/2005 Coll. entered into force on 1 May 2005.

The Act No. 117/2006 Coll. shall enter into force on 1 April 2006, apart from provisions of Section 32, Subsection 22 and 23, which shall enter into force on 1 January 2007.

List of Transposed Directives

By this Act the following Directives shall be transposed:

1. Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ No. L 108 of 24 April 2002, pp. 33-50.
2. Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services ("Authorisation Directive), OJ No. L 108 of 24 April 2002, pp. 21-32.
3. Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), OJ No. L 108 of 24 April 2002, pp. 7-20.
4. Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), OJ No. L 108 of 24 April 2002, pp. 51-77.
5. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ No. L 201 of 31 July 2002, pp. 37-47.

Translated versions of these directives are available in the Central Translation Unit, the Institute for Approximation of Law of the Slovak Republic Government Office.

**MINIMUM LIST OF ITEMS TO BE INCLUDED IN A REFERENCE OFFER
FOR UNBUNDLED ACCESS TO THE LOCAL LOOP**

A. Conditions for unbundled access to the local loop

1. Network elements access to which is offered cover in particular:
 - (a) access to local loops,
 - (b) access to non-voice band frequency spectrum of a local loop in the case of shared access to the local loop.
2. Information on locations of physical access sites¹⁾ and availability of local loops in specific parts of the access network.
3. Technical conditions related to access and use of local loops, including the technical characteristics of the twisted metallic pair in the local loop.
4. Ordering and provisioning procedures, usage restrictions.

B. Co-location services

1. Information on relevant sites¹⁾ of the significant undertaking.
2. Co-location options at the sites indicated under point 1 (including physical co-location and, as appropriate, distant co-location and virtual co-location).
3. Possible restrictions on equipment which can be co-located.
4. Measures put in place by significant undertaking to ensure security of their locations.
5. Access conditions for the staff of competitive undertakings.
6. Safety standards.
7. Rules for allocation of space in case of limited space for co-location.
8. Conditions for undertakings to inspect the locations at which physical co-location is available or sites where co-location has been refused on grounds of lack of capacity.

C. Information systems

Conditions for access to operational support systems or to databases of significant undertaking for pre-ordering, provisioning, ordering, requests for maintenance, repairs and billing.

D. Supply conditions

1. Lead time for responding to requests for supply of services and facilities; service level agreements, fault resolution, procedures to return to a normal level of service and quality of service parameters.
2. Standard contractual conditions, including, where appropriate, compensation provided for failure to meet lead times.
3. Prices or pricing formulae for each item, function and facility listed above.

¹⁾ Availability of these information may be restricted to the parties concerned only in the case of public security interests.

CONDITIONS FOR PROVISION OF THE MINIMUM SET OF LEASED LINE

A. Non-discrimination

The undertaking shall provide this service to end users under comparable conditions and in the same quality as it would use it for its own need or provide it to its subsidiary undertaking or partner undertaking, where it has the co-decision right.

B. Transparency

The undertaking shall publish:

- a) technical characteristics including physical and electrical parameters as well as detailed technical specification for network termination points,
- b) price of the initial connection, the periodic rental prices and other prices; where the prices are differentiated, this shall be indicated; if in case of a particular request, an undertaking with significant market power concludes that it is unreasonable to provide the leased line within the minimum set under the published prices and supply conditions, the undertaking shall be obliged to ask the Office for alteration of the conditions,
- c) supply conditions containing at least:
 1. the ordering procedure,
 2. the delivery period, i.e. period in which 95 % of all leased lines of the same type have been provided; the period shall be counted from the date of application submission for a leased line and shall be determined on the basis of actual delivery periods of leased lines within the last six months; the calculation shall not include cases where a longer delivery period for leased lines was requested by users,
 3. the validity period of the contract,
 4. the standard period for fault removal, which shall be counted from the moment of reporting a fault to the responsible unit of the undertaking with significant market power up to the moment in which 80 % of all leased lines of the same type have been put again into operation and in the specified cases up to the announcement of the undertaking that the leased line is again in operation; where different classes of quality of repair are offered for the same type of leased lines, the different standard periods for fault removal shall be published,
 5. all refund methods.

Where the Office considers that the achieved results at the provision of the minimum set of leased lines do not meet users' needs, it may determine appropriate target values for the supply conditions.