

# **Act**

as of 14 September 2011

## **on Electronic Communications**

**The National Council of the Slovak Republic adopted this Act:**

### **PART ONE BASIC PROVISIONS**

#### **Section 1 Subject of the Act**

- (1) This Act shall govern
- a) conditions for the provision of electronic communications networks and electronic communications services,
  - b) conditions for the use of radio facilities,
  - c) regulation of electronic communications,
  - d) rights and obligations of undertakings and users of electronic communications networks and electronic communications services,
  - e) protection of electronic communications networks and electronic communications services,
  - f) effective use of frequency spectrum and numbers,
  - g) rights and obligations to real estates of third parties in relation to installation and operation of electronic communications services,
  - h) protection of privacy and protection of personal data processing in the sector of electronic communications, and
  - i) powers of state administration authorities in the sector of electronic communications.
- (2) Unless stipulated otherwise by this Act, this Act shall not apply to the content of services provided via electronic communications networks<sup>1</sup>.
- (3) Electronic communications ensure the exchange or transmission of information especially in the form of pictures, sound or text (hereinafter referred to as “signal”) via electronic communications networks.

#### **Section 2 Electronic Communications Networks**

(1) Electronic communications network (hereinafter referred to as “network”) means a functionally interconnected set of transmission systems and, where applicable, switching and routing facilities, including network elements that are not active, which enable transmission of signals by wire, by radio, by optical or by other electromagnetic facilities, including satellite

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<sup>1</sup> For example, Act No. 22/2004 Coll. on Electronic Commerce and on Amendment of Act No. 128/2002 Coll. on State Inspection of Inner Market in Consumer Protection Affairs and Amendment of Other Acts, as amended by Act 284/2002 Coll. as amended by Act No. 160/2005 Coll., Act No. 308/2000 Coll. on Transmission and Retransmission and on Amendment of Act No. 195/2000 Coll. on Telecommunications, as amended by later regulations..

networks, circuit- and packet-switched fixed networks, including Internet and mobile terrestrial networks, power distribution networks to the extent in which they are used for transmission of signals, networks for radio and television broadcasting, and cable distribution systems, regardless of the type of information transmitted.

(2) Public network means a network which is used wholly or mainly for the provision of publicly available electronic communications services, which support the transfer of signals between network termination points.

(3) Interface means:

a) A network termination point which is a physical point in which users are provided with access to public network; in case of the networks using switching or routing, such a point is defined by a specific network address which can relate to a telephone number or user's identification,

b) Radio interface that defines a radio connection route between the radio equipment,

c) Network interconnection point or

d) Application programming interface which means software interfaces between applications provided by operators of radio and television broadcasting or by providers of services and among facilities in digital television equipment made for digital television and radio services.

(4) The provision of a network means the establishment, operation, control or making available of such a network.

(5) Geographic number means a number from the national numbering plan where part of its structure has geographic meaning used for routing calls to the physical location of the network termination point.

(6) Non-geographic number means a number from the national numbering where no part of its structure has a geographic meaning; it includes in particular numbers of mobile network users, freephone numbers, and numbers of premium rate services.

(7) Access means enabling the access to facilities or electronic communications services to another undertaking in order to provide electronic communications services, even in case they are used for the provision of information society services<sup>2</sup> or broadcasting of programme services. It mainly includes access to

a) network elements and associated facilities, which may involve the connection of equipment, by fixed or other means, in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop,

b) fixed and mobile networks, especially to roaming service,

c) number translation facilities or to systems offering an equivalent function,

d) relevant software systems including operational support systems,

e) physical infrastructure including buildings, ducts and masts, premises and parts of network lines;

f) conditional access systems for digital television services,

g) virtual network services,

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<sup>2</sup> Section 2, Letter a) of Act No. 22/2004 Coll.

h) information systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests, and for billing purposes.

(8) Interconnection means the physical and logical linking of public networks used by the same or a different undertaking enabling the user of the network of one undertaking to communicate with the user of the same or another undertaking, or enabling the access to electronic communications services provided by another undertaking. Interconnection is a specific type of access implemented among public networks.

(9) Local loop means the physical circuit connecting the network termination point to a distribution frame or equivalent facility in the fixed public network.

(10) Unbundled access to the local loop means full unbundled access and shared access to the local loop without the change in the ownership of the local loop.

(11) Full unbundled access means access to the local loop or local sub loop of an undertaking with significant market power, which shall entitle another undertaking to use the full network infrastructure capacity; local sub loop is a part of the local loop connecting the network termination point to the specified access point or to the specified intermediate access point in the fixed network.

(12) Shared access to the local loop means access to the local loop or local sub loop of the undertaking with significant market power, which shall entitle another undertaking to use the specified part of network infrastructure capacity, such as a part of the frequency spectrum or its equivalent.

(13) Lines of networks (hereinafter referred to as "lines") means routes and engineering network constructions and public technical territorial facilities<sup>3</sup>), particularly aerial and underground lines, long distance and local transmission systems, cable distribution systems and radio routes, including their accessories and associated facilities, supporting and demarcation points; lines are part of the network.

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

(15) Demarcation point of an underground line means the sign, the milestone or the post determining the position of cable sets, a crossing of cables with roads, railways or water courses and a location change of the route of cables in municipalities or in free terrain.

### **Section 3 Electronic Communications Services**

(1) Electronic communications service (hereinafter referred to as "service") means a service usually provided for a payment that consists wholly or mainly in the conveyance of signals in networks, including telecommunications services and transmission services in the networks

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<sup>3</sup>) Section 43a, Subsection 3, Letter h) and i), Section 55, Subsection 2 and Section 139a, Subsection 10, Letter e) of Act No. 50/1976 Coll. on Territorial Planning and Construction Order (Construction Law), as amended by later regulations.

used for radio and television broadcasting. The service shall not include the provision of a content nor performing editorial control over the content transmitted through networks and services and shall not include information society services <sup>2)</sup> that do not lie wholly or mainly in the conveyance of signals by networks.

(2) Public service means a publicly available service, use of which may be requested by everybody. Public telephone service means a public service for direct or indirect making and receiving national and international calls by means of one or more numbers from the national or international numbering plans.

(3) Call means a connection set up by means of the public service that enables two-way voice communication.

(4) Service interoperability means such setting up of transmission parameters of services, associated facilities and interfaces, which enable the communication among end users or among the end user and the undertaking offering the service by means of technologically different networks.

#### **Section 4**

#### **Electronic Communications Equipment**

(1) Telecommunications equipment means a technical equipment for sending, transmission, routing, reception, switching or processing of signals spread by wire, radio, optical or other electromagnetic means.

(2) Radio equipment means a telecommunications equipment or its relevant part that is capable to communicate by means of sending and reception, or sending or reception of radio waves in the frequency spectrum assigned to terrestrial or space radio communications.

(3) Terminal equipment means a telecommunications equipment or its relevant part that enables communication and is designed for connection to network termination points.

(4) Associated facilities means associated services, physical infrastructures and other facilities or elements associated with a network or service which enable or support the provision of services via that network or service and include particularly buildings or entries to buildings, building networks, building wiring, electrical equipment and electrical connections, antennae, towers and other supporting constructions, ducts, cable shafts, conduits, masts, manholes, and cabinets;

(5) Associated services means services associated with a network or service which enable or support the provision of services via that network or service and include particularly number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as identity, location and presence service;

(6) Harmful interference means such interference which threatens the functionality of a radio-navigation service or other emergency services, or otherwise seriously worsens, spoils or repeatedly interrupts the radio communications service, defined in the international agreement<sup>4</sup> binding upon the Slovak Republic, operated in accordance with this Act.

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<sup>4</sup> Decree of the Ministry of Foreign Affairs No. 190/1968 Coll. on International Convention on telecommunications, Montreaux 1965.

(7) Public payphone means a publicly available telephone the use of which may be paid especially by coins, credit cards, debit cards or by prepaid cards, including cards for use with dialling codes. The component of a public payphone is its cabin or its stand.

(8) Radio waves means electromagnetic waves with the frequency to 3,000 GHz, which are transmitted in free air without artificial lines.

## **Section 5**

(1) For the purposes of this Act, undertaking means every person who provides a network or service; undertaking activity means a network or a service provision in the electronic communications sector for the third party<sup>5</sup>).

(2) User means a person that uses or requests the provision of a publicly available service. For the purposes of this Act, user is also a subscriber and end user unless stipulated otherwise hereinafter.

(3) End user means a person who uses or requires a publicly available service and does not provide this service and does not provide another services through that service. The end user is a consumer<sup>6</sup> and in case of radio and television programmes services also a listener and a viewer.

(4) Subscriber means such an end user who concluded a Contract on the provision of public services with an undertaking providing a public service.

## **PART TWO REGULATION OF ELECTRONIC COMMUNICATIONS**

### **CHAPTER ONE**

#### **Powers of State Administration Authorities in the Electronic Communications Sector**

## **Section 6**

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

- a) Ministry of Transport, Construction and Regional Development of the Slovak Republic (hereinafter referred to as „Ministry“)
- b) Telecommunications Regulatory Authority of the Slovak Republic (hereinafter referred to as the “Office”).

(2) The Ministry

a) elaborates a proposal of the national electronic communications policy and other strategic documents in the electronic communications sector and submits them to the Government of the Slovak Republic (hereinafter referred to as the “Government”) for approval,

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<sup>5</sup>) Section 2, Subsection 2, Letter c) of Commercial Code.

<sup>6</sup> Section 2 of Act No. 250/2007 Coll. on Consumer Protection and on Amendment of Act of the Slovak National Council No. 372/1990 on Minor Offences, as amended by later regulations.

- b) elaborates a proposal of the national table of the frequency spectrum,
- c) cooperates with the European Commission, Member States of the European Union and the states which are contractual parties of the Agreement on European economic area (hereinafter referred to as „Member State“) at strategic planning, coordination and harmonisation of frequency spectrum use; for these purposes, it respects in particular European Union policy aspects concerning economy, security, health, public interest, freedom of speech, culture, science, society and technology, as well as different interests of user groups of frequency spectrum so as to optimize frequency spectrum use and prevent harmful interference,
- d) in cooperation with the European Commission and Member States, it supports coordination of approaches within European Union frequency spectrum policy, and where applicable, harmonized conditions respecting frequency spectrum availability and its effective use for creation and keeping up inner market for electronic communications,
- e) provides for international relations in the electronic communications sector at the level of the European Union and international organisations.

(3) The Office as the national regulatory authority and pricing authority<sup>7)</sup> in the electronic communications sector

- a) Performs regulation of electronic communications,
- b) Provides for international relations in the electronic communications sector at the level of regulatory authorities, actively participates in the activities of the Body of European Regulators for Electronic Communications (hereinafter referred to as „Body of European Regulators“),<sup>8)</sup> and supports its tasks concerning upholding better coordination and consistency at regulation.
- c) Cooperates with the Ministry in elaboration of the proposal of the national frequency spectrum table and performs management of the frequency spectrum,
- d) Protects interests of end users with regard to the quality and prices of services,
- e) Fulfils obligations supporting effective competition, effective investments and innovation, development of the common market of the European Union, interests of all persons of Member States in the territory of the Slovak Republic, adequate access to networks, interconnection of networks and interoperability of services and protects freedom of carrier selection,
- f) Issues generally binding legal regulations within the limits of this Act,
- g) Publishes the Journal of the Telecommunications Office of the Slovak Republic (hereinafter referred to as “Journal “),
- h) Sets administrative payments under Subsection 4,
- i) Leads out-of-court dispute resolution,
- j) Provides end users information concerning services, performs users’ researches, publishes them and uses them in its activities,
- k) Fulfils tasks related to restriction of proprietary rights to real estates in respect of using real estates for the purposes of ensuring the services and tasks related to restriction of proprietary rights to movable assets by restriction or ban on using transmission telecommunications facilities and circuits at the time of war and belligerency<sup>9)</sup>,

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<sup>7)</sup> Section 20, Subsection 1, Letter c) of the Act of the National Council of the Slovak Republic No. 18/1996 Coll. on Prices, as amended by Act No. č. 68/2005.

<sup>8)</sup> Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office (O. J. of EU L337, 18. 12. 2009).

<sup>9)</sup> Art. 2, Clause 3 and Art. 3 of Constitutional Act No. 227/2002 Coll. on Security of the State at the Time of War, Belligerency, Extraordinary Situation and Emergency Situation, as amended by Constitutional Act No. 181/2006 Coll.

- l) Executes state supervision on electronic communications (hereinafter referred to as „supervision“),
- m) Imposes sanctions for infringing the obligations stipulated by this Act,
- n) Recognizes special professional capability to operate selected radio equipment under the special regulation <sup>10)</sup> ,
- o) Executes other activities under a special regulation <sup>11)</sup>.

(4) The Office imposes administrative charges on

- a) undertakings providing networks or services based on the general authorisation,
- b) the right to use numbers based on the individual authorisation for the use of numbers, or
- c) the right to use frequencies based on the individual authorisation for the use of frequencies.

(5) The amount of administrative charges shall not exceed the amount of essential costs of the Office on the execution of electronic communications regulation. The Office stipulates the payments to individual undertakings with regard to minimising additional administration costs. The payments shall be collected by the Office and shall be the income of the state budget.

(6) The Office shall publish its budget within 60 days following the date on which the state budget for the respective budgetary year becomes effective. The Office shall publish the way and method of specifying the administrative charges, annual overview of its costs and the total amount of administrative payments collected.

## Section 7

(1) The Office is a budgetary organisation <sup>12</sup> financially connected to state budget through the budgetary chapter of the Ministry. The registered Office seat is 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 upon the proposal of the Government by the National Council of the Slovak Republic (hereinafter referred to as “National Council”). The Ministry publishes the decision on the recalling including the decision’s substantiation on its website.

(3) In time of absence or if the post of the Chairman of the Office is empty, the Chairman of the Office is deputised by the Vice-Chairman of the Office. Besides that, the Vice-Chairman of the Office fulfils the tasks assigned to him by the Chairman of the Office. The Vice-Chairman of the Office is appointed and recalled by the Government.

(4) Term of office of the Chairman of the Office and of the Vice-Chairman of the Office is six years. The same person may perform the office of the Chairman of the Office 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 pursuant to a special regulation <sup>13</sup>.

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<sup>10)</sup> Act No. 293/2007 Coll. on Recognizing technical capabilities as amended by Act No 560/2008 Coll.

<sup>11)</sup> For example, Section 68 of Act No. 308/2000 Coll. as amended by later regulations.

<sup>12)</sup> Section 21, Subsections 1 and 7 of Act No. 523/2004 Coll. on Budgetary Rules of Public Administration and on Amendment of Other Acts, as amended by later regulations..

<sup>13)</sup> Act No. 400/2009 Coll. on State Service and on Amendment of Other Acts, as amended. by later regulations.

(6) During their term of office, the Chairman of the Office and the Vice-Chairman of the Office may not:

- a) Hold any position in any other state authority or in a body of a legal person established by law as a public institution,
- b) Be an employee, an associate or an executive head of a legal person, a member of his statutory body, governing body, inspection body or an employee of a natural person - undertaking, neither have a share on fixed assets nor have a share on voting rights on behalf of these persons, provided these persons are a network operator, service provider or network operator and service provider,
- c) Undertake or have other gainful employment, except the cases stipulated by a special regulation<sup>14</sup>.

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

- a) Expiration of their terms of office,
- b) Resigning from their positions,
- c) Recalling from their positions,
- d) Death or being certified dead.

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

(9) The National Council shall recall the Chairman of the Office and the Government will recall the Vice-Chairman of the Office if

- a) Any of the events stated in Subsection 6 arose,
- b) They were lawfully sentenced for an intentional crime, as the accused made conciliation in the proceedings for an intentional crime, prosecution for an intentional crime was conditionally stopped or were legally sentenced for a crime committed due to negligence to unconditional punishment of confinement,
- c) They were deprived of their capability to perform legal acts or if their capability to perform legal acts was restricted,
- d) They have not performed their position for a period of at least six consecutive months.

## **Section 8**

### **Cooperation of the Office with Other Authorities, Offices and Operators**

(1) The Office shall cooperate mainly with:

- a) the Ministry,
- b) the Council for Broadcasting and Retransmission in the field of broadcasting and retransmission,

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<sup>14)</sup> Section 61, Subsection 2 to 4 of Act No. 400/2009 Coll.



- c) the Antimonopoly Office of the Slovak Republic in the issues related to determination of relevant markets in the electronic communications sector ((hereinafter referred to as „relevant market"), analysis of relevant markets and determination of the undertaking with significant power on the relevant market,
- d) the Ministry of Finances of the Slovak Republic in the field of information society,
- e) the Office for Personal Data Protection of the Slovak Republic,
- f) operators of special networks at coordination and administration of frequency spectrum use,
- g) the Slovak Trade Inspection related to consumer protection,
- h) the European Commission, BEREC, and national regulatory authorities of the Member States while ensuring the consistent execution of legally binding acts of the European Union listed in Annex 5.

(2) When executing the powers of the Office defined by this Act and the powers of the Antimonopoly Office of the Slovak Republic governed by a special regulation, the Offices shall exchange information and supporting materials. In case of information exchange marked as confidential or subject to business confidentiality<sup>15</sup>, the receiving authority shall provide the same confidentiality level as the authority providing the information.

## **Section 9**

(1) The employees of the Office shall respect confidentiality of facts that are subject to business confidentiality<sup>10)</sup> of which they have been informed. The employees of the Office may be relieved of the confidentiality obligation by that subject on behalf of which they are subject to this obligation.

(2) The undertaking which has provided the Office information marked as business confidentiality<sup>15</sup> shall be obliged to submit, upon a request of the Office, a written substantiation for marking the information as a subject of business confidentiality and provide such wording of information which does not contain business confidentiality. The information marked as business confidentiality<sup>15</sup> may be adequately protected by technical means related to the form of providing or making the information available to the Office.

(3) After a reasoned request, the Office shall provide the information which the European Commission or BEREC require to carry out their tasks. Where the Office provided the information to the European Commission previously provided by the undertaking at the request of the Office, the Office shall inform the undertaking thereof. The information collected by the Office shall be publicly available, except from the information which is subject to business confidentiality or a secret fact<sup>16</sup>.

(4) If the Office provides the European Commission the information marked by an undertaking as subject to business confidentiality, the Office shall request the European Commission to safeguard confidentiality.

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<sup>15)</sup> Section 17 to 20 of Commercial Code.

<sup>16)</sup> Act No. 215/2004 Coll. on Protection of Concealed Matters and on Amendment of Other Acts, as amended by later regulations.

(5) If information is requested under a special regulation<sup>17</sup> and the information is subject to confidentiality obligation, the liable person<sup>18</sup> shall not make it available by citing the reference to Subsection 1.

## **Section 10** **Consultations**

(1) The Office, before accepting the measure which will have a significant impact on the relevant market or it is stipulated by this Act, shall enable the persons concerned to make their statements on the draft measure. The period for making the statement shall be one month since the day of publishing the draft measure; this period may be prolonged to a maximum of two months in complex cases. Where applicable, the Office shall consider the statements of the associations of end users, manufacturers of electronic communications equipment and undertakings to the greatest extent possible.

(2) For consultations purposes, the Office shall establish and administer a consultation point on its website, where the Office shall publish the rules defining the procedure of the Office and persons concerned in the consultations process, draft measures, comments submitted except from the information marked as subject to business confidentiality<sup>15</sup>, and the consultations results including comments evaluation.

(3) The Office shall publish the results of the consultations including comments evaluation on its consultation point within one month after the period for making a statement under Subsection 1 is over.

(4) After publishing the results of the consultations under Subsection 3, the Office shall make available this draft with justification to the European Commission, BEREC and national regulatory authorities of the Member States pursuant to Section 9, Subsection 4 if the draft measure would affect trade between the Member States and if it relates to:

- a) defining relevant markets,
- b) procedures related to relevant market analysis,
- c) network interconnection obligations, interoperability of services and obligations under Section 26,
- d) imposing, amending or withdrawing obligations under Sections 19 to 23 and Section 25.

(5) Member States regulatory bodies, BEREC and the European Commission may submit comments within the period of one month to the Office, which the Office shall take account to the greatest extent possible.

(6) If the draft measure under Subsection 4 aims at defining relevant market other than the markets listed in the list under Section 16, Subsection 1 or defining or not defining an undertaking, which has alone or together with other undertakings significant market power under Section 18 and the European Commission in its statement to the draft measure expresses the opinion that the measure would be a hindrance in mutual trade within the European Union or expresses serious doubts about the conformity within the European Union

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<sup>17</sup> Act No. 211/2000 Coll. on Free Access to Information and Amendment of Other Acts (Act on Freedom of Information), as amended by later regulations.

<sup>18</sup> Section 2 of Act No. 211/2000 Coll., as amended by later regulations.

law, particularly with the principles defined in Section 11, the Office shall postpone the adoption of the measure for two months after being acquainted with that opinion.

(7) If the European Commission adopts a resolution under Subsection 6 within two months period which imposes on the Office the obligation to withdraw the draft measure and gives the reasons why this draft measure should not be adopted and submits concrete proposals to amend the draft measure, the Office shall withdraw the draft measure or amend it within six months since the European Commission adopted the resolution. In case of the amendment of the draft measure, the Office acts under Subsections 1 to 4. The Office shall adopt the final draft measure pursuant to Subsection 5 except cases under Subsection 6.

(8) If in exceptional cases it is necessary to act in the interest of competition protection and user interests protection, the Office shall issue, without delay regardless of the procedure under Subsections 1 to 6, an adequate temporary measure. If it is measure under Subsection 4, the Office shall without delay notify the European Commission, BEREC and regulatory bodies of the Member States about this measure and includes the reasons. The Office acts under Subsections 1 to 6 as soon as the reasons for adopting an adequate temporary measure are over.

(9) If the draft measure under Subsection 4 is aimed at imposing, amending or withdrawing obligations of an undertaking under Section 19 to 25 and 28 and the European Commission within the period under Subsection 5 informs the Office about the reasons why it considers the draft measure to be a hindrance in mutual trade within the European Union or expresses serious doubts about its conformity with the European Union law, the Office shall postpone adopting the measure in three months after the European Commission notification.

(10) Within the three months period defined under Subsection 9, the Office cooperates with the European Commission and BEREC, while taking account of the opinions of undertakings and the necessity to ensure promotion of common regulatory procedure.

(11) The Office within the period under Subsection 9

a) shall withdraw the draft measure or amend it, while respects to a maximum extent the notification of the European Commission defined in Subsection 9 and the opinion issued by BEREC or

b) shall leave the draft measure without change.

(12) If the European Commission within one month after the end of the three months period stated under Subsection 9 issues a recommendation requiring the Office to amend or withdraw the draft measure and states the reasons for such a recommendation and submits for this purpose also concrete proposals, or adopts resolution about withdrawing its reservations, the Office, within one month since issuing European Commission recommendation or resolution about withdrawing its reservations, notifies the European Commission and BEREC on the final wording of the adopted measure. This period may be prolonged in order to enable the Office to perform consultations under Subsections 1 to 3.

(13) Where the Office decides not to amend or withdraw the draft measure on the basis of the recommendation issued under Subsection 12, it shall provide a reasoned justification including the notification of the final wording of the measure.

(14) The Office may withdraw the proposed draft measure anytime.

(15) The Office shall communicate all adopted final measures under Subsection 4 to the European Commission and BEREC.

## **Regulation of Electronic Communications**

### **Section 11**

(1) The Office shall be obliged to act and issue its decisions in line with the principles of efficiency, objectivity, transparency, non-discrimination, proportionality and substantiation. The Office shall publish all its decisions, generally binding legal regulations and information that contribute to open and functionally competitive market on its website and, if stipulated by this Act, also in the Journal, and shall update the data continuously.

(2) In regulation of electronic communications, the Office shall take into account recommendations and guidelines of the European Commission, including technical standards and specifications of networks and services, the list of which is published by the European Commission in the Official Journal. If the Office decides not to follow the recommendations of the European Commission, it informs the European Commission and gives reasons for its decision. Unless stipulated otherwise by this Act, the Office shall consider technological neutrality of regulation, which neither imposes nor discriminates using a particular type of technology. If technical standards and specifications are not published, the standards adopted by European standardization bodies shall be used. In the absence of such standards, international standards or recommendations adopted by the International Telecommunication Union, the European Conference of Postal and Telecommunications Administrations, the International Organisation for Standardisation or the International Electrotechnical Commission shall be used.

(3) In regulation of electronic communications, the Office promotes effective competition in the provision of networks, services, associated facilities and services mainly by:

- a) ensuring that, in the electronic communications sector and the transmission of content, there is no distortion or restriction of effective competition,
- b) ensuring that users, in particular disabled users, elderly users and users with special social needs derive maximum benefit in terms of service choice, price and quality; for the purposes of this Act, the disabled user means a holder of the card of a natural person as heavily disabled<sup>19</sup>.
- c) encouraging efficient use of frequency spectrum and numbers and ensuring their management.

(4) In regulation of electronic communications, the Office promotes the principles under Subsection 1 mainly by:

- a) promoting predictability of electronic communications regulation by ensuring a common regulatory approach,
- b) ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings,
- c) safeguarding effective competition to the benefit of consumers and adequately promoting infrastructure-based competition,

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<sup>19)</sup> Section 16, Subsection 1 of Act No. 447/2008 Coll. on Monetary Contributions to Compensate the Heavily Disabled and on Amendment of Other Acts.

- d) promoting efficient investment in a quality and up-to-date infrastructure and its innovation, also by ensuring that any access obligations take appropriate account of the risk, incurred by the investing undertakings and by permitting agreements on splitting the risk of investment between the investor and the person requesting network access,
- e) taking due account of different situations in relation to effective competition and consumers in various geographic areas of the state,
- f) imposing obligations pursuant to this Act only when there is no effective and sustainable competition, and relaxing or withdrawing such obligations where such a condition is met.

## **Section 12**

### **Regulation of Prices**

(1) Regulation of prices means defining or giving guidelines to price magnitude in the manner defined in a decision on price regulation. The decision on price regulation shall be substantiated and published in the Journal.

(2) The Office may regulate the prices of

- a) the access,
- b) on the market of end users,
- c) universal service,
- d) number portability.

(3) The manners of price regulations are as follows:

- a) defining maximum or minimum prices,
- b) giving guidelines to price evolution by defining the conditions such as:
  - 1. maximum extent possible of raising the prices within the defined period,
  - 2. maximum ratio, in which it is permitted to project the raised prices of the defined inputs within the defined period into the price, or
  - 3. a time-limited ban on raising the prices on the respective relevant market for a maximum of 12 months,
- c) a binding procedure at setting the price or its calculation, including the obligation of cost orientation, defining effective and efficient expended costs and proportionate profit.

(4) The manners of price regulation under Subsection 3 may be combined effectively. At price regulation under Subsection 3, the Office may define the price also on the basis of the prices in comparable markets.

(5) If the Office decides on the manner of price regulation under Subsection 3, Letter c), it shall define the method of price calculation in a decision which shall contain types of costs and the rules how to allocate them. The undertaking shall be obliged, within the period which shall not be longer than two months after the date on which the decision took effect, to calculate the prices under the price calculation method defined by the Office and submit their substantiation to the Office. The undertaking shall be obliged, upon the request of the Office, to prove that the prices cover only the cost necessary for providing the service. Then the Office or a qualified and independent person authorised by the Office shall verify the price calculation of the undertaking. In order to verify the price calculation, a price calculation method may be used which is independent and different from the method used by the undertaking. The Office shall publish the results of the verification annually. In substantiated cases, the Office may decide on the amendment of the prices. The undertaking shall be obliged to put the prices in effect only following the approval of the calculation or amendment of prices by the Office.

## **CHAPTER TWO**

### **AUTHORISATION TO PROVIDE NETWORKS AND SERVICES**

#### **Section 13**

(1) The provision of networks or services may be performed only on the basis of a general authorisation, the obligations imposed under Sections 19 to 25 and 28 shall not be affected thereby. If it is necessary to assign an individual right to use numbers or frequencies for the provision of networks or services, the undertaking requests the grant of such rights under Section 31 or Section 32.

(2) Subsection 1 shall not apply to the installation and operation of special networks.

#### **Section 14**

##### **General Authorisation**

(1) General authorisation for the provision of networks or services (hereinafter referred to as „General Authorisation“) defines the conditions which may be applied to all or certain types of networks or services.

(2) The conditions of a general authorisation may apply only to the following obligations regarding:

- a) Interoperability of services and interconnection of networks,
- b) Accessibility of services by end users through numbers from the national numbering plan, numbers from the European Telephone Numbering Space, the Universal International Freephone Numbers, and, where technically and economically feasible, from numbering plans of other Member States,
- c) Environment protection and territorial planning, as well as granting access or usage of third party's real estates and common use of facilities and common use of space, including possible financial or technical guarantees necessary for ensuring proper implementation of infrastructure works,
- d) Financial contributions for covering net costs arising in the provision of universal service,
- e) Administrative charges,
- f) Protection of personal data and privacy in the electronic communications sector,
- g) Protection of end users and availability of services to disabled users,
- h) Restriction of conveyance of a signal with illegal content,
- i) notification obligation under Section 15 and the obligation to provide the information under Section 40,
- j) enabling listening and tapping of network operation,
- k) Preparation of networks and services for a crisis situation for ensuring communication between the crisis management bodies and rescue units of the integrated rescue system,
- l) Measures for restriction of irradiation of persons by electromagnetic fields in the vicinity of effects of networks and their equipment as electromagnetic radiation sources,
- m) Access under Section 18, Subsection 3,
- n) Maintaining the integrity of public networks in relation to conditions for preventing electromagnetic interference among networks or services under special regulations<sup>20</sup>,

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<sup>20</sup> Regulation of the Government of the Slovak Republic No. 443/2001 Coll. defining the details on technical requirements and conformity procedures of assessment radio and end telecommunications equipment.

- o) Protection of public networks against unauthorized access,
- p) Efficient use of the frequency spectrum and prevention of harmful interference related to the use of frequencies, if their use is not subject to an individual authorisation for using frequencies,
- q) Ensuring compliance with technical standards and technical specifications of networks and services,
- r) Ensuring communication for state bodies in case of warning the public against imminent danger and for the purposes of mitigation of the effects of an extraordinary event,
- s) Making available information on the conditions restricting access to services and applications or their use aimed at ensuring interconnectivity between end points and providing such information to the Office which, where applicable, enable to verify correctness of published information.

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

(4) The Office shall issue a general authorisation and publish it in the Journal. The general authorisation takes effect by the day of publishing, in case there is given no later day of taking the effect.

(5) Subsections 3 and 4 shall be duly applied also for amendment or withdrawal of a general authorisation.

## **Section 15**

### **Notification Obligation**

(1) The person intending to carry out business in the provision of networks or services shall be obliged to notify this intention to the Office prior to initiation of the provision. The person shall be obliged to notify also any changes in network or service provision or termination of their provision, within 15 days from a change in network or service provision or their termination.

(2) The notification under Subsection 1 shall be made in writing and contains:

a) Identification data

- 1. Name, surname, and the address of permanent residence in terms of a natural person,
- 2. Business name, place of business, identification number and legal form in terms of a legal person,
- 3. Business name, place of business, identification number, where assigned, in terms of a natural person - undertaker,

b) A person or persons authorised to act on behalf on a natural or legal person in this matter and information necessary for effective contact with such persons,

c) Brief description of networks and services,

d) The expected date of initiation, change or cancellation of network and service provision.

(3) Based on the delivery of a complete notification, the Office shall register the notifying party as an undertaking providing networks or services; provided that the notification is incomplete, the Office shall return it to the notifying party and defines a reasonable period for the completion. The Office shall publish on its website the registration of the full notification within seven days after its delivery. If requested by the undertaking, the Office shall affirm fulfilment of notification obligation to the undertaking within seven days after the delivery of the notification. The Office in the acknowledgment of the fulfilment of notification obligation shall provide information in terms of rights under Section 13, Subsection 1, Section 27, Section 50, Subsection 5 and Section 66.

(4) If the undertaking, under ban of the activity by the Office in relation to Section 73, Subsection 8, intends to provide networks or services anew after elapsing the period defined in the decision on the ban of the activity, it shall be obliged to notify this intention to the Office pursuant to Subsection 1 and 2.

### **CHAPTER THREE**

#### **REGULATION OF COMPETITION IN ELECTRONIC COMMUNICATIONS**

##### **Section 16**

##### **Definition of Relevant Markets**

(1) The Office shall define relevant markets on the basis of the list of relevant markets recommended by the European Commission and by taking into account geographic conditions and other specific national conditions in line with the principles of competition law.

(2) The Office may define a relevant market other than the markets defined in the Recommendations and Guidelines of the European Commission; such a definition shall be preceded by the consultations under Section 10.

(3) The Office shall continuously complement or change the list of relevant markets based on Guidelines and Recommendations of the European Commission. The Office shall define the list of relevant markets and its changes in 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 issuing such a decision.

(4) The Office shall cooperate with the European Commission when determining transnational markets in line with the requirements of the European Commission; transnational markets means markets covering the European Union or substantial part thereof and located in more than one Member State;

##### **Section 17**

##### **Analysis of Relevant Markets**

(1) The aim of the analysis of relevant markets shall be to detect whether there exists effective competition on the relevant market.

(2) Effective competition means such a situation where none of the undertakings acting on the respective relevant market has significant market power.

(3) The undertaking with significant market power on the relevant market is the undertaking which individually or jointly with other undertakings has such a position on the market that it



is not exposed to effective competition and its economic influence enables it to behave, to a substantial extent, independently of the competitors and users (hereinafter referred to as “SMP undertaking”).

(4) As an SMP undertaking may also be considered the undertaking with significant market power on a closely related market, where the links between the two relevant markets are such as to allow market power held in the first market be leveraged into the second market, thereby strengthening the market power of the undertaking.

(5) Two or more undertakings providing networks or services in the relevant market can be found to have a joint significant market power if, even in the absence of structural or other links between them, they operate in a market typical of a lack of effective competition and in which no single undertaking has significant market power. The joint significant market power may be defined in a relevant market characterised by a high degree of concentration and by more characteristics, mainly:

- a) low elasticity of demand,
- b) high legal or economic barriers to entry the market,
- c) lack of countervailing buyer power,
- d) lack of potential competition,
- e) vertical integration with collective refusal to meet the demand, or
- f) similar market shares.

(6) The Office shall carry out an analysis of the relevant market and notify the draft measure under Section 10, Subsection 4

a) within three years from the adoption of the previous decision of the Office on defining the SMP undertaking under Section 18, Subsection 1 or after finishing the market analysis, if the Office had not defined an SMP undertaking; the period may exceptionally be extended for up to three additional years, where the Office has submitted a reasoned proposed extension to the European Commission and the European Commission has within one month not objected to such an extension.

b) within two years from the adoption by the European Commission of an updated Recommendation on relevant markets to the European Commission in terms of the markets not previously notified.

(7) Where the Office has not completed an analysis of a relevant market defined in the Recommendation of the European Commission in the time limit under Subsection 6, it shall ask BEREC to cooperate at the completion of the analysis. In such a case, the respective time limit under Subsection 6 shall be extended in six months.

(8) At assessing whether the undertaking has a significant market power, the Office shall assess the criteria related to the respective relevant market and take utmost account of the Guidelines on Market Analysis published by the European Commission.

## **Section 18**

### **Defining SMP Undertaking**

(1) If the Office finds out on the basis of an analysis under Section 17 that there is not an effective competition on the relevant market, after the completion of consultations under Section 10, it shall, by a decision, define an SMP undertaking and, at the same time, impose at

least one obligation under Sections 19 to 25; in terms of the markets under Section 17, Subsection 4, it shall impose at least one obligation under Sections 19 to 21, 23 and 25. Such obligations shall be reasoned, take account of the analysed situation and be adequate to the purpose and principles of regulation of electronic communications which are promotion of effective competition and development of internal market. The undertaking proposed as an SMP undertaking in the analysis of a relevant market under Section 17 shall be the party of the proceeding. The basis for the decision shall be the analysis of the relevant market under Section 17 and opinions of concerned persons in the consultations under Section 10. For the purposes of this proceeding, the rights of the party of the proceeding under a special regulation<sup>21</sup> shall apply during the consultations under Section 10, Subsection 1. If in such a market there is a defined SMP undertaking, the Office shall issue a new decision on defining an SMP undertaking, in which the undertaking's existent obligations shall be re-imposed or changed. The previous decision expires after the adoption of the new decision. The Office shall publish the decision in the Journal.

(2) In case the Office detects on the basis of a market analysis that there is effective competition in the respective relevant market, it shall neither impose nor leave in force any obligations under Sections 19 to 25. The Office shall withdraw the existent obligations in a decision which withdraws the definition of the undertaking as an SMP undertaking.

(3) The Office may, in exceptional cases, impose other obligations in terms of access and interconnection, other than the obligations under Sections 19 to 23, to SMP undertakings in the respective relevant market. The Office may impose other obligations only with the previous consent of the European Union.

(4) If there is on a market, which the Office omitted from the Recommendation on relevant markets under Section 16, Subsection 3, a defined SMP undertaking, the decision under Subsection 1 and the decisions issued on the basis of such a decision expire by the adoption of the decision on the change of relevant markets, announced in the Collection of Acts of the Slovak Republic.

(5) Where the European Commission defines transnational markets under Section 16, Subsection 4, the Office in cooperation with respective national regulatory bodies of the Member States shall carry out the analysis of the defined transnational market and after a mutual agreement decides under Subsection 1 or 2.

## **Section 19**

### **Transparency of Access and Interconnection**

(1) In order to provide for transparency in relation to access or interconnection, the Office may impose on the SMP undertaking the obligation to publish specific information, especially accounting information, technical specifications, network characteristics, contractual terms and conditions of supply and use of services, including prices and the conditions restricting access to services and applications or the use thereof. If applicable, the Office shall specify the information which the SMP undertaking shall be obliged to submit to the Office and publish, the Office defines the required level of details of the content and the manner in which the information shall be published.

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<sup>21</sup>) Section 33 of Act No. 71/1967 Coll. on the Administrative Proceeding (Administrative Regulations).

(2) In particular where an SMP undertaking has the obligation of non-discrimination, the Office may impose on the SMP undertaking the obligation to publish a reference offer for access and interconnection within 60 days from the adoption of a decision on imposing such an obligation, in particular if the SMP undertaking has the non-discrimination obligation. The reference offer shall be transparent in order to ensure that undertakings requesting access or interconnection will not be asked to pay for the facilities which are not necessary for the provision of the required service. The reference offer shall be sufficiently structured and include also a description of individual items, usual points of interconnection, quality, related periods and terms and conditions including prices. In order to exercise obligations pursuant to this Act or the obligations imposed by a decision of the Office under 18, Subsection 1, the Office may impose on the SMP undertaking to change the reference offer; the Office may take account of the proposed change of the reference offer submitted by the undertaking. The undertaking shall be obliged to submit the amended reference offer the Office within 30 days after adopting the decision on change of reference offer.

(3) Where an SMP undertaking has obligations imposed under Section 22 related to wholesale network infrastructure access, it shall be obliged within the time limit under Subsection 2 to submit the Office a reference offer for wholesale network infrastructure access. The reference offer for wholesale network infrastructure access shall contain the elements set out in Annex 1. The reference offer shall not contain such prices for network elements or facilities for which the authorised undertaking providing public network or service would be obliged to pay, if they are unnecessary for the provision of his services.

(4) The Office shall forthwith publish the submitted reference offer.

## **Section 20**

### **Non-discrimination of Access and Interconnection**

(1) The Office may impose the non-discrimination obligation in relation to access or interconnection of networks on the SMP undertaking.

(2) On the basis of the obligation imposed under 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 equal conditions and in equal quality as if it used them for its own needs or provided them to the undertaking in the position of controlled person<sup>22</sup> or the undertaking in which it has the co-decision right.

## **Section 21**

### **Separated Records**

(1) The Office may impose on the SMP undertaking providing access or interconnection the obligation on accounting separation for each specific activity in relation to access or interconnection and to require a vertically integrated undertaking to make its wholesale and internal prices transparent to ensure also the requirement for non-discrimination under Section 20 or to prevent preference or discrimination of some services by cross-subsidizing costs and revenues from other services and mutually between the services. The Office may specify the structure of accounting records and methodology of separate records in the accounting system.

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<sup>22)</sup> Section 66a of Commercial Code.

(2) Upon the request of the Office, the SMP undertaking shall be obliged to submit the accounting records for the verification of obligations under Sections 19 and 20, including data on revenues for each relevant market of access and interconnection. Where such information would contribute to an open and competitive market, the Office shall publish it.

## **Section 22**

### **Access to Certain Network Facilities**

(1) The Office may impose on the SMP undertaking in relation to access or interconnection the obligation to meet a reasoned and justified request for access, use of specific network elements and associated facilities and interconnection of networks, particularly in cases where it finds out that denial of access or unreasonable terms and conditions would not enable effective competition on the market for end users or would not be in their interest. To provide for access or interconnection, the Office may impose on the SMP undertaking mainly the condition:

- a) to provide third parties access to specified network elements including access to network elements which are not active and unbundled access to the local loop, to allow, inter alia, carrier selection, pre-selection or offer subscriber line under wholesale conditions for further resale by third parties;
- b) not to withdraw access to facilities already granted;
- c) to negotiate in good faith with undertakings requesting access;
- d) to provide specified services on a wholesale basis for resale by third parties;
- e) to ensure open access to interfaces, protocols and other coding facilities technologies that are necessary for the interoperability of services or virtual network services;
- f) to enable co-location or other forms of shared use of associated facilities;
- g) to provide specified services needed for interoperability of services, including provisioning of facilities for intelligent network services or roaming in mobile networks;
- h) to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services;
- i) to interconnect networks or network facilities;
- j) to provide access to associated services.

(2) The Office may supplement the obligations under Subsection 1 with fulfilment of conditions of fairness, proportionality, and timeliness. To ensure normal operation of the network, the Office may lay down technical or operating conditions of access to special network facilities or to network interconnection in line with Section 11. Both the undertaking providing access or interconnection and the third parties using access or interconnection shall meet the defined conditions.

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

- a) The technical and economic acceptability of using or installing competing facilities in terms of the rate of market development, the method and type of interconnection or access, including lifespan of other access products, such as the access to cable ducts;
- b) Feasibility of providing access and interconnection with regard to the capacity exploitable;
- c) The initial investment by the facility owner in terms of public investment made and risks related with the investment;

- d) the need to safeguard competition in the long term, in particular safeguarding effective infrastructure-based competition;
- e) The protection of intellectual property rights;
- f) The provision of pan-European services.

### **Section 23**

#### **Regulation of Prices of Access and Interconnection**

Where, on the basis of the relevant market analysis related to access or interconnectivity under Section 17, the Office finds out the lack of effective competition in such a market and imposing of one or more obligations under Sections 19 to 22 is insufficient against inadequate high or inadequate low prices related to access or interconnection demanded by the SMP undertaking to the detriment of end users, the Office may regulate the prices of the SMP undertaking under Section 12. To encourage investment by the undertaking, including investment in the next generation networks, the Office shall take into account the rate of investment made by the SMP undertaking and allow him a reasonable rate of return on capital employed and takes into account any related risks specific to a particular new investment network project.

### **Section 24**

#### **Functional Separation of Business Entity**

(1) Where the obligations imposed under Sections 19 to 23 on the SMP undertaking have failed to achieve effective competition and there are important and persisting competition problems or market failures in relation to the wholesale provision of certain access products, the Office may, as an exceptional measure, impose an obligation on vertically integrated undertakings to establish an independently operating business entity which has a position of a controlled person<sup>21</sup>. The undertaking shall be obliged to transfer all activities related to the wholesale provision of respective relevant product on such a person.

(2) The independent business entity shall supply access products and services to all undertakings, including the undertakings of the controlled person, in the same periods, terms and conditions, including price and service levels, and by means of the same systems and processes.

(3) Prior to imposing the obligation under Subsection 1, the Office shall submit the European Commission as follows:

- a) evidence justifying the intention to impose such an obligation;
- b) a reasoned assessment that there is no or little prospect of effective and sustainable infrastructure-based competition within a reasonable time-frame;
- c) the analysis of the expected impact on the Office, on the undertaking, in particular on the workforce of the separated business entity and on the electronic communications sector as a whole, and on incentives to invest in the sector as a whole, particularly with regard to the need to ensure social and territorial cohesion, as well as the impact on other stakeholders, and in particular the expected impact on competition and any potential related impact on consumers;
- d) the analysis of the reasons justifying that this obligation would be the most effective means to enforce remedies aimed at addressing of identified competition problems or market failures.

(4) The Office may impose the obligation under Subsection 1 only after the preceded consent of the European Commission. Then the Office shall conduct a coordinated analysis of the markets related to the access network and then proceeds under Section 18.

(5) The draft decision of the Office under Subsection 1 shall contain:

- a) the manner and level of separation, in particular the legal status of a separate business entity;
- b) the identification of the assets of the separate business entity and the products or services to be supplied by that entity;
- c) the conditions ensuring the independence of the staff employed by the separate business entity, and the corresponding incentive infrastructure;
- d) rules for ensuring transparency of operational procedures, in particular towards other stakeholders;
- e) rules and a monitoring programme for ensuring compliance with the obligations, including the publication of an annual report.

(6) On the undertaking on which the establishment of a separate business entity has been imposed, the Office may impose any of the obligations defined in Sections 19 to 23 in any relevant market where the undertaking has been designated as the SMP undertaking or any other obligations authorised by the European Commission pursuant to Section 18, Subsection 3.

## **Section 25**

### **Regulation of Services for End Users**

(1) Where the Office, based on the analysis of a relevant market under Section 17, finds out that there is not effective competition on the retail market and the obligations imposed under Sections 19 to 23 are not effective enough to safeguard interests of end users, the Office may impose on the SMP undertaking in particular:

- a) ban on giving preference to a certain group of end users;
- b) ban on unreasoned bundling of the provision of services to provide other services or products where such provision of services or products is feasible also in a separate manner.

(2) The Office for protection of end users on the retail market under Subsection 1 may regulate prices under Section 12 so that the SMP undertaking would neither demand inadequate high prices nor restrict competition nor prevent entry into the market by setting inadequate low prices.

## **Section 26**

### **Conditional Access System**

(1) The undertaking providing conditional access shall be obliged to ensure the broadcasters at the conditional access<sup>23</sup> to digital TV and digital radio the fulfilment of conditions of such access. The details of the conditions of access shall be determined in a generally binding legal regulation issued by the Office.

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<sup>23</sup> Section 2, Letter b) of Act No. 646/2005 Coll. on Protection of Certain Radio and Television Programme Services and Information Society Services and on Amendment of Act No. 128/2002 on State Inspection of Inner Market in Terms of Consumer Protection and on Amendment of Other Acts, as amended. by later regulations.

(2) On its own initiative or at the proposal of the undertaking concerned, the Office may impose, after consultations under Section 10, the obligation to provide access to application programme interface and access to electronic programme guides under fair, adequate and non-discrimination conditions on the undertakings providing access to digital radio and television broadcasting services for end users; this is without prejudice to the obligations imposed on SMP undertakings under this Act.

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

(4) Television programme service with wide-screen format means a service which fully or partially includes programmes produced and modified to be displayed in the wide-screen format on the entire height of the screen. The reference format shall be 16:9 format.

(5) Equipment for enhanced digital television means additional equipment designed for connection to the television set or an integrated digital television set for receiving interactive services of digital television.

## **Section 27**

### **Interconnection of Networks**

(1) The undertaking providing a public network shall have the right and, upon the request of other undertaking providing a public network, the obligation to negotiate network interconnection and, if feasible, on the basis of a contract of interconnection, to interconnect its network with the network of the requesting undertaking for the purposes to provide public services, to ensure the provision and interoperability of services. The contract of interconnection shall be in a written form. The substantial part of the contract of interconnection shall be the price of interconnection.

(2) The undertaking providing a public network shall have the right and, upon the request of another undertaking providing a public network based on the general authorisation, the obligation to negotiate network interconnection and, if feasible, on the basis of a contract, to interconnect its network with the network of the requesting undertaking. The undertaking of other Member State requesting access or interconnection in the Slovak Republic is exempt from the notification obligation on this territory if it does not provide services or networks here.

(3) Interconnection may be provided by the undertaking or third party having access to a public network. Interconnection of public networks shall be available in usual points of interconnection and in the quality, which shall not be inferior than the operation of the public network for own needs of the undertaking or for the provision of the public network and service to the undertaking in the position of a controlled person or an undertaking in which it has the right to make co-decision. The undertaking shall be responsible for interoperability of services on that part of the public network it operates, up to the point of interconnection.

(4) The undertaking providing public network shall be obliged to enable interconnection:

a) Under technical requirements given by technical standards and technical specifications pursuant to Section 14, Subsection 2, Letter q) ensuring interoperability of services;

b) In a reasonable period and under reasonable contractual terms and conditions, whereas the interconnection shall not be subject to payment for those parts of the public network or equipment which 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.

(5) The undertaking shall be obliged to submit the concluded contract of interconnection of networks in a written form to the Office within 45 days from its conclusion; the undertaking shall be obliged to submit the concluded contract in an electronic form in the same period and to the extent covering basic technical and economic terms and conditions of interconnection. The Office shall publish notification of conclusion of the contract of interconnection of networks, including basic technical and economic terms and conditions of interconnection and shall allow everyone, requesting so, to look into the contract, except for those parts of the contract which is considered to be business confidentiality<sup>15</sup>. The price for interconnection is not subject to business confidentiality.

(6) In its decision after the consultations under Section 10, the Office may impose on the undertakings that control at least one network end point the obligations to the necessary extent to ensure for interconnectivity between network end points, in reasoned cases also the obligation to interconnect the network in the period laid down by the Office and to the required extent also the obligations for ensuring interoperability of their services; this is without prejudice to the obligations imposed on SMP undertakings under this Act.

(7) The information acquired by the undertakings during the negotiation on interconnection of public networks shall be used solely for the purpose for which it was acquired and shall not be passed on to the third parties for whom such information could provide a competitive advantage. This provision shall not apply to the information under Section 40, Subsection 3.

## **Section 28**

### **Voluntary Separation of a Business Entity**

(1) When the SMP undertaking intends to transfer its assets consisting of local network or a substantial part thereof to a separate business entity in which has no ownership, or to establish a separate business entity that has the position of the controlled person<sup>21</sup> to provide to undertakings on retail markets, including its own retail divisions, fully equivalent access products, the undertaking shall be obliged to inform the Office of the intention at least four month in advance. The undertaking shall be obliged to inform the Office on any changes of its intention and on the final result of the separation process.

(2) The Office shall assess the effect of the intended process of establishing a business entity on the imposed obligations. For that purpose, the Office shall conduct a coordinated analysis of the markets related to the access network and then continue under Section 18.

(3) The Office may impose on the separate business entity any of the obligations under Sections 19 to 23 in any relevant market where the entity has been designated in accordance with Section 17 as an SMP undertaking or any other obligation authorised by the European Commission pursuant to Section 18, Subsection 3.

## **CHAPTER FOUR**



## **MANAGEMENT OF NUMBERS AND FREQUENCIES**

### **Section 29**

#### **Management of Numbers and Numbering Plan**

(1) The Office shall:

- a) Administer the numbers;
- b) Prepare and issue the numbering plan,
- c) Issue individual authorisations for using numbers.

(2) Numbers means the calling numbers, the numbering blocks and the addresses of public networks and services.

(3) In the numbering plan, the Office shall lay down the rules for setting and using numbers and general terms and conditions for their allocation ensuring equivalent treatment of all providers of public services. 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 ensure sufficient quantity of numbers.

(4) The 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 laid down as 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) Cooperation with the Ministry in elaboration of the draft of the national table of the frequency spectrum,
- b) Preparing the plan of use of frequency spectrum,
- c) Assigning frequencies and laying down the conditions for the use of frequencies,
- d) Coordinating and checking the use of frequency spectrum.

(2) An inter-departmental commission, of which statutes and the rules of procedure shall be approved by the Ministry, shall participate in the preparation of the national table of the frequency spectrum. The commission's members are deputies of the Ministry, the Ministry of Defence of the Slovak Republic (hereinafter referred to as „Ministry of Defence“), the Ministry of the Interior of the Slovak Republic (hereinafter referred to as „Ministry of the Interior“), the Slovak Information Service and the Office.

(3) The national table of the frequency spectrum shall contain in particular frequency bands allocated for respective radio communications services for civil and military purposes; by this Act, the military purpose means ensuring the State defence, State security, protection of public order, life, public health and property. The national table of the frequency spectrum shall be determined by the governmental decision and published by the Ministry of its website.

(4) On the basis of the national table of the frequency spectrum, the Office shall issue the plan of use of frequency spectrum, taking into account the need for European harmonisation, level of technical development of radio equipment and the provision of services in the specific frequency band, seeking for benefits for consumers and ensuring the state defence and security. The plan of use of frequency spectrum also contains information on such bands of spectrum from which the rights given by the allocation of frequencies may be transferred or leased. The Office shall publish the plan of use of frequency spectrum on its website.

(5) At preparing the plan of use of the frequency table, the Office shall take account that all types of technologies used for services may be used in the allocated frequency bands. After the consultations under Section 10, the Office may determine proportionate and non-discriminatory restrictions on some types of radio network or wireless access technology where necessary to avoid harmful interference, protect public health against electromagnetic field, ensure technical quality of service, ensure maximisation of frequency sharing, safeguard efficient use of frequency spectrum or ensure the fulfilment of the general interest objective under Subsection 6.

(6) The Office shall take account that all types of services may be provided in the allocated frequency bands. After the consultations under Section 10, the Office may, proportionately and non-discriminatory, restrict the extent of services in the specific frequency band if necessary to ensure the fulfilment of the general interest objective, in particular protection of life, the promotion of social, regional or territorial cohesion, the avoidance of inefficient use of frequencies or the promotion of cultural and linguistic diversity, media pluralism and the provision of radio and television broadcasting services.

(7) The Office may prohibit to provide other service in the specific band where necessary to protect the service ensuring life protection or, exceptionally, to fulfil other general interest objectives under Subsection 6.

(8) Triennially, the Office shall review the necessity of restrictions under Subsections 5 and 6 and make the results of these reviews public. Based on the results of the review, the Office shall maintain or amend the restrictions.

### **Section 31 Individual Authorisation for the Use of Numbers**

(1) Individual authorisation for the use of numbers means the decision of the Office on the allocation of numbers in accordance with the numbering plan.

(2) The Office shall allocate numbers on the basis of the application of an undertaking providing public network or public services or on the basis of the application of a person requiring allocation of a harmonised European number of social value to provide harmonised services of social value within three weeks since receiving the application in line with Subsection 3.

(3) The application for allocation of numbers shall contain:

- a) identification data of the applicant under Section 15, Subsection 2, Letter a),
- b) Information about the requested numbers,
- c) Purpose of use of numbers,

- d) Period of use of numbers,
- e) where applicable, an annex consisting of the documents on fulfilling the conditions for the allocation of the harmonised number of social value under a special regulation<sup>24</sup>.

(4) Individual authorisation for the use of numbers may contain only:

- a) Identification data of the applicant to whom the numbers are allocated,
- b) Allocated numbers and definition of the service for which the number shall be used, including any requirements related to the provision of such a service,
- c) Principles of setting the prices and maximum prices of certain numbers, if necessary for end users protection,
- d) Requirements for number portability,
- e) Specific terms and conditions for the use of allocated numbers,
- f) Period for which the numbers are allocated,
- g) Repeated payment for the allocated numbers and the payment method,
- h) Imposing the obligation to submit a report on the use of numbers to the Office annually in the period stipulated in the decision,
- i) Obligations arising under international agreements related to use of numbers.

(5) The Office shall not allocate the numbers if:

- a) It is necessary for the compliance with the obligation of the Slovak Republic arising under an international agreement or membership in an international organisation,
- b) The numbering plan does not permit allocation of numbers,
- c) The required numbers are not available,
- d) The applicant for allocation of a harmonised European number of social value does not meet the requirements for allocation of number under a special regulation<sup>24</sup>,
- e) It has withdrawn the applicant the individual authorisation for the use of number within the last three years or decided on withdrawal of the allocated number under Subsection 9, Letter a), Point 1 to 3.

(6) The Office shall decide on the change of the allocated number:

- a) Where necessary for the compliance with the obligation of the Slovak Republic arising under an international agreement or membership of the Slovak Republic in an international organisation;
- b) Where necessary in relation to state defence, security of the state, and the public order protection,
- c) Where necessary in the interest of maintaining security of public traffic, due to technical or operational reasons,
- d) In the interest of adaptation to market requirements or requirements of users,
- e) If there has been a change in the circumstances under which the number was allocated,
- f) On the basis of a reasoned application of the holder of an individual authorisation for the use of numbers.

(7) In the proceedings pursuant to Subsection 6, the Office shall communicate the holder of the individual authorisation for the use of numbers the intended change in writing; the holder of the individual authorisation for the use of numbers may provide his statement to the intended change within the four weeks from the delivery of the communication.

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<sup>24</sup>) For example Section 77 to 86 of Act No. 305/2005 Coll. on Social and Legal protection of children and on Social Guardianship and on Amendment of Other Acts, as amended by later regulations.

(8) The holder of the individual authorisation for the use of numbers shall be obliged within the period determined by the Office and upon its own cost execute the decision of the Office on change of the allocation of numbers under Subsection 6, Letters a) to e).

(9) The Office shall withdraw the individual authorisation for the use of numbers or decide on withdrawal of the allocated number if:

a) the holder of the individual authorisation for use of numbers

1. Fails to comply with the obligations stipulated by this Act or by the individual authorisation for the use of numbers, including its amendments, although he was notified, in writing, of the possibility of withdrawal of the number and has not applied remedy within the stipulated period; this shall not apply to the annual payment for the allocated numbers,

2. did not use that number for a period of at least 12 months from the allocation of the number or stopped using the allocated numbers for at least three months,

3. Has not settled the repeated payment for the allocated numbers within three months from the payment's due date,

4. No longer fulfils the conditions for the use of allocated harmonised European number of social value under a special regulation<sup>24</sup>,

b) It is necessary in terms of state defence, security of state or protection of public order;

(10) The individual authorisation for the use of numbers shall expire from the date :

a) of expiration of the period for which the number was allocated,

b) of delivery of the announcement of the holder of the individual authorisation for the use of numbers on returning the numbers to the Office,

c) of delivery of the announcement of the undertaking on terminating the network or service provision,

d) of validity in law of the decision on revoking the number,

e) of cessation of the holder of the individual authorisation for the use of numbers; this shall not apply where the holder has his legal successor,

f) of validity in law of the decision on the ban to provide networks or services.

(11) The undertaking shall allocate the number to other subscriber no sooner than six months from the date on which the contract, through which the given number was allocated, on the provision of public services of the previous subscriber has expired.

(12) The holder of the individual authorisation for the use of numbers shall be obliged to pay for every allocated number an annual repeated payment in line with the tariff of fees. The tariff of fees shall be determined by a generally binding legal regulation issued by the Office.

(13) The holder of the individual authorisation for the use of numbers shall not discriminate other undertakings in terms of the numbering ranges allowing access to their services.

## **Individual Authorisation for the Use of Frequencies**

### **Section 32**

(1) The frequencies shall be used only on the basis of the general authorisation for the use of frequencies or the basis of an individual authorisation for the use of frequencies. The individual authorisation for the use of frequencies (hereinafter referred to as „individual authorisation“) means the decision of the Office on the allocation of frequencies and on laying down the conditions under which the frequencies may be used or the decision of the Office on the allocation of frequencies or the decision on the conditions under which the frequencies may be used.

(2) The Office shall issue the individual authorisation in line with the plan of the use of frequency spectrum, where applicable, in order to:

- a) avoid harmful interference,
- b) ensure technical quality of service,
- c) ensure efficient use of frequency spectrum, or
- d) fulfil other objectives of the general interest as defined in line with the international agreement binding upon the Slovak Republic.

(3) The Office shall issue the individual authorisation within six weeks from the date of delivery of the complete application in terms of the frequencies which are available in line with the plan of use of frequency spectrum. If there are more applicants requiring the same frequencies, the Office shall issue the individual authorisation in order of the delivery of the applications. The Office may extend the period for issuing the individual authorisation to a maximum of eight months, if necessary to ensure fair, proportionate, open and transparent procedures for all applicants. Such time limits shall be without prejudice to the international agreements relating to the use of frequencies and orbital positions.

(4) The holder of the individual authorisation may be:

- a) a natural person that reached the age of 18 and is fully capable for legal acts, and in terms of the individual authorisation for the operation of an amateur station, a natural person that reached the age of 14,
- b) a legal person.

(5) The application for the issuance of the individual authorisation shall contain:

- a) Identification data of the applicant under Section 15, Subsection 2, Letter a) and date of birth if the applicant for an individual authorisation for operation of an amateur station is a physical person,
- b) Number and type of radio equipment, and transmitting and receiving antennae as well, if applicable,
- c) Requested frequency or frequency band and definition of envisaged territory, where applicable,
- d) Purpose and manner of the use of radio equipment, including technical data thereof and the data on transmitting and receiving antennae including emissive diagrams, if they are not already obligatory defined by the international agreement binding the Slovak Republic.
- e) The data about the person authorised to act on behalf of the applicant and the data about the person responsible for the operation of the radio equipment and a certificate of his special professional capability, if determined by this Act,
- f) Assumed date of putting the radio equipment into operation and initiation of the provision of service, where applicable,

- g) A verified copy of the broadcaster's licence on the analogue broadcasting granted under a special regulation<sup>25)</sup> in terms of the individual authorisation for the radio analogue broadcasting,
- h) The period for which the applicant requires the allocation of frequencies,
- i) Required identification codes if they are necessary for the specific type of service,
- j) Other data if they are necessary for the fulfilment of the objectives under the international agreements binding the Slovak Republic or arising from the membership of the Slovak Republic in international organisations.

(6) The Office may require to submit the information necessary to prove the realities referred to in the application under Subsection 5.

(7) The Office may restrict the number of rights for the use of frequencies defined in the plan of use of frequency spectrum or extend the duration of the existent rights in a different way as was determined in the original individual authorisations, while taking into account the need to maximise benefits for users and facilitate the promotion of competition. The Office shall consult the draft on restriction of the number of rights under Section 10. After defining the proceeding, the Office shall invite to submit the applications for issuance or extension of the individual authorisation.

(8) The Office shall review the restriction of the number of rights under Subsection 7 triennially or on the basis of an application of the undertakings concerned.

(9) The individual authorisation pursuant to Subsection 1 may include only:

- a) Identification data of the holder of the individual authorisation,
- b) The obligation to provide service or use type of the technology for which the allocated frequencies are defined, including possible requirements on coverage and quality, if such requirements are determined by the national table of the frequency spectrum or plan of the use of frequency spectrum,
- c) Conditions for efficient use of frequencies,
- d) Technical and operational conditions necessary for prevention of harmful interference and limitation of exposition of public to the effects of electromagnetic field where such conditions differ from the conditions set in the general authorisation,
- e) Allocated frequencies, identification codes and the period of validity of the individual authorisation, reserving the right for changes of the national table of the frequency spectrum,
- f) Liabilities assumed by the undertaking of the selection procedure in the course of the selection procedure and included in the offer,
- g) Operator class for amateur stations,
- h) Amount of payment for frequencies and identification codes and the manner of payment,
- i) Definition of obligations including the related data which are necessary for fulfilment of the objectives under international agreements on the use of frequencies binding the Slovak Republic or objectives arising from the membership of the Slovak Republic in international organizations,
- j) Conditions of the transfer or lease of rights arising from the allocation of frequencies,
- k) Number and type of radio equipment and antennae, technical specification thereof and type of broadcasting, where applicable,
- l) Definition of the territory on which the frequencies may be used, if necessary for the respective type of radio communications service,

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<sup>25)</sup> Section 49, Subsection 3 of Act No. 308/2000 Coll.

m) Obligations specific for the experimental use of frequencies.

(10) The Office shall issue the individual authorisation for analogue terrestrial broadcasting if the applicant for the individual authorisation has a license on radio analogue terrestrial broadcasting or has concluded an agreement on the transmission of the radio broadcasting with the holder of such a licence.

(11) In defining the validity period of the individual authorisation, the Office shall take account of the necessary investment and the need to allow for an appropriate period of investment amortisation. The Office shall issue the individual authorisation for a maximum of 10 years. The Office may issue the individual authorisation also for a longer period if it is substantiated by the period of investment rate of return. In terms of the frequencies which were not allocated on the basis of the selection procedure, the Office may extend the individual authorisation on the basis of the application of the holder of the authorisation. In terms of the individual authorisation for the radio analogue terrestrial broadcasting issued on the basis of the licence for the analogue radio terrestrial broadcasting, such an individual authorisation may be issued for a period referred to in the application for the individual authorisation, for a maximum period for which the licence for the radio analogue terrestrial broadcasting was granted. The applicant may submit the application on extending the validity of the individual authorisation no sooner than six months prior to the individual authorisation expiration and not later than six weeks prior the individual authorisation expiration.

(12) The Office shall specify in the individual authorisation if the rights arising from the allocation of frequencies may be transferred or leased in accordance with the plan of the use of frequency spectrum and under what conditions.

(13) The undertaking shall be obliged to notify the intention to realize the transfer of rights arising from the allocated frequencies to the Office within the four weeks before the realization of thereof and the realization of the transfer within the five working days. The announcement of intention shall contain identification data of the holder of the individual authorisation and the undertaking on which the rights arising from the allocation of frequencies are to be transferred, to the extent under Section 15, Subsection 2, Letter a) and b), identification of the individual authorisation in terms of the transfer and the frequencies to be transferred. The Office shall publish this intention and the realization of the transfer.

(14) The transfer or lease of rights shall not be realized if:

- a) in case of the frequencies granted for analogue radio or analogue television broadcasting,
- b) in case of harmonised frequencies and their transfer is not in line with their harmonisation,
- c) transfer or lease would lead to competition distortion,
- d) The Office withdrew the individual authorisation under Section 34, Subsection 3 from the undertaking, of which it was a holder of, on which the rights are to be transferred or leased, in the last three years prior to intended transfer or lease.

(15) If not defined in the individual authorisation by the Office otherwise, the terms and conditions defined in such an authorisation continue to be valid also after the transfer or lease of rights.

(16) The Office may issue a temporary individual authorisation, valid not more than one month, aimed at one-off purposes, which may not be adequately predicted in advance, if the

required frequencies are available and there would be no harmful interference. The application on the issuance of a temporary individual authorisation shall be delivered to the Office not less than three working days prior to the requested date of the initiation of the use of the frequency.

(17) A special regulation<sup>26</sup> shall govern the details on the individual authorisation, including its granting, by which the frequencies for the provision of terrestrial multiplex are allocated.

### **Section 33**

(1) Where necessary to restrict the number of rights for the use of frequencies or in case of the selected frequencies of which the conditions of allocation are determined by the plan of the use of frequency spectrum, the Office shall issue the individual authorisation on the basis of the selection procedure under Subsections 2 to 9. The Office shall announce the selection procedure on the basis of an application to issue the individual authorisation or on its own initiative. During the selection procedure, the Office shall suspend the procedure about the application on the issuance of the individual authorisation.

(2) The Office shall initiate the selection procedure by inviting the offers in which it specifies:

- a) Frequencies, frequency blocks or the frequency band which are the subject of the selection procedure,
- b) The purpose of use, the conditions and methods of the optimal use of the frequencies,
- c) Evaluation criteria,
- d) The deadline for submitting the offer,
- e) The requirements on the form and the content of the submitted evidence for the selection procedure in order to ensure the comparability of the offers,
- f) Amount of the one-off payment for the allocation of frequencies as the expected minimal offer,
- g) Additional supporting documents for the selection procedure, where applicable.

(3) The Office shall publish the call for the submission of offers in the Journal and shall publish the announcement on publishing the call in a national daily press periodical in the Slovak Republic. The Office shall revoke the selection procedure if there has not been submitted any offer during the period for submitting the offer specified in the call. The Office may revoke the selection procedure if the circumstances under which the selection procedure has been announced changed substantially. The Office shall be obliged without delay to notify all bidders about the revocation of the selection procedure and give reasons for that.

(4) In order to evaluate the offers, the Office shall establish the Selection commission consisting of at least 5 members. The Chairman of the Office shall appoint the members of the Selection commission; only the unimpeachable and qualified person may be the member of the Selection commission. For the purpose of this Act, the person finally convicted for a deliberate criminal offence shall not be considered unimpeachable. Unimpeachability shall be proved by an extract from the register of criminal records not later than three months; this shall not apply in terms of a state employee. The qualified person means a person with the university education of legal, economic or technical orientation with specialization on the

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<sup>26</sup>) Section 18 to 23 of Act No. 220/2007 Coll. on Digital Broadcasting of Programme Services and Provision of Other Content Services by Means of Digital Transmission and on Amendment of Certain Acts (Act on Digital Transmission).



electronic communications and praxis in the field for at least five years. As a member of the Selection commission shall not be the:

- a) Person employed or having a similar labour relation to any party in the selection procedure or its representative,
- b) Person who is a partner, statutory body or a member of the statutory body or controlling or supervisory body of any party in the selection procedure or of its representative,
- c) Person that is close<sup>27)</sup> to a partner, statutory body or a member of the statutory body, member of the controlling body or supervisory body or a manager of any party in the selection procedure or of its representative,
- d) Person which with respect to his relation to the matter, to any party in the selection procedure or its representative can be doubted about his unprejudiced approach,

(5) The person that is to be appointed a member of the Selection commission shall provide the Chairman of the Office a written declaration on word of honour about fulfilling the conditions under Subsection 4. Should the member of the Selection commission no longer meet the conditions under Subsection 4 after the selective competition has started, he shall be obliged forthwith to inform the Chairman of the Office about this fact and shall not take part in the Selection commission activities until his recalling. The Chairman of the Office shall appoint another person to be a member of the Selection commission who complies with the conditions stipulated in Subsection 4 and provides about this fact a declaration of the word of honour.

(6) Participant of the selection procedure means a proposer of the offer submitted within the period specified in the call for the selection procedure.

(7) The Office shall not take into consideration offers submitted after the set deadline and return it the proposer of the offer unopened. The offer shall not be amended after the deadline.

(8) The Selection commission shall exclude from the selection procedure the participant of the selection procedure whose offer does not fulfil the conditions of the call or whom the Office has withdrawn the individual authorisation under Section 34, Subsection 3 within the last three years. The Selection commission shall evaluate the offers under the criteria specified in the call for the selection procedure and determine the order of participants of the selection procedure, and shall elaborate a report on this. In allocation of frequencies, the Office is bound by the order determined by the Selection commission. The participants of the selection procedure who took such places where no frequencies would be allocated are considered as unsuccessful participants. The Office shall cease the procedure for the application and provide the reasons to the unsuccessful and excluded participants of the selection procedure. The report on the progress and result of the selection procedure shall be the basis for the continuation of the procedure for the allocation of frequencies to the successful participant of the selection procedure.

(9) For the successful participant of the selection procedure, the Office shall issue a decision on the allocation of frequencies within four weeks, at the latest, after evaluating and setting the order of the participants of the selection procedure. Such a decision shall not authorise the successful participant to use the frequencies. Prior to the initiation of the use of the allocated frequencies, the successful participant of the selection procedure shall be obliged to request the Office on the issuance of the decision on defining the conditions of use of frequencies.

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<sup>27)</sup> Section 116 of the Civil Code.

(10) Where the successful participant of the selection procedure withdraws its application prior to the issuance of the Decision on the allocation of frequencies or abandons the allocation of frequencies, or the Office revokes the Decision on the allocation of frequencies because the one-off payment for the allocation of frequencies has not been settled within the due date, the Office shall commence the proceedings in terms of the allocation of frequencies with the next participant of the selection procedure respecting the order determined by the commission. The successful participant of the selection procedure shall accept the commitments that he stated in the offer.

(11) The provisions of the selection procedure shall not apply to the allocation of frequencies for the radio analogue terrestrial broadcasting.

### **Section 34**

(1) The Office shall not issue or extend the individual authorisation if:

- a) It is required by an international agreement or membership of the Slovak Republic in an international organization,
- b) It is determined by a special regulation<sup>28</sup>,
- c) The plan of the use of the frequency spectrum does not permit the allocation of the frequency,
- d) The required frequency is not available,
- e) A person required the individual authorisation whom the Office has withdrawn the individual authorisation within the last three years under Subsection 3, or
- f) The individual authorisation which extension is required by the holder of the individual authorisation concerns the frequencies which were allocated on the basis of the result of a selection procedure.

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

- a) for the reason under Subsection 1, Letter a) if the fulfilment of such obligations is not possible otherwise,
- b) the realities, on the basis of which the individual authorisation was granted, have substantially changed,
- c) on the basis of a reasoned application of the holder of the individual authorisation.

(3) The Office shall withdraw the individual authorisation or the allocated frequency if:

- a) the holder of the individual authorisation has not started using the allocated frequency for the permitted purpose or in the defined territorial extent within six months from the date of validity of the decision on the allocation, if the Office in the individual authorisation has not specified a longer period, or used for other purpose as it was allocated to him,
- b) the holder of the individual authorisation has not used the allocated frequency for the permitted purpose or in the defined territorial extent more than six months; the Office shall withdraw this authorisation if this status will prove repeatedly in the three subsequent inspections with the time intervals of minimum of two weeks between the inspections,
- c) the holder of the individual authorisation does not fulfil the obligations under this Act or defined in the individual authorisation although he was warned in advance of the possibility to have withdrawn the authorisation and has not applied remedy in the period defined by the Office,

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<sup>28</sup>) Section 20 of Act No. 220/2007 Coll.

- d) the holder of the individual authorisation has not settled the repeated payment for the frequencies under Section 35 within the three months from the due date or the one-off payment under Section 35 in the due date,
- e) the transfer or lease of the rights arising from the allocated frequencies has been realised in contradiction with this Act or the individual authorisation,
- f) it is determined by a special regulation<sup>29</sup>.

(4) The individual authorisation shall expire:

- a) On the date of expiration of the period for which it was issued,
- b) By death or cessation of the holder of the individual authorisation; this shall not apply if the undertaking has a legal successor,
- c) on the date defined in the statement on waiving the individual authorisation delivered to the Office, the earliest date shall be the date of the delivery,
- d) on the date of the termination of providing the networks or services stated under Section 15,
- e) on the date of the adoption of the decision under a special regulation<sup>30</sup>,
- f) on the date of the adoption of the decision on the cancellation of the vessel from the maritime registry of the Slovak Republic or of the registry of vessels, in terms of the individual authorisation for the ship station or the decision on the cancellation of the aircraft from the registry of aircrafts of the Slovak Republic, in terms of the individual authorisation for the aircraft station<sup>31</sup>.

## **Section 35**

### **Fee for the Right to Use the Frequency**

(1) The fee for the right to use frequencies shall take account of the guarantee of using the allocated frequencies without their mutual interference. The one-off fee for the allocated frequencies means a fee under Section 33, Subsection 2, Letter f). The repeated fee means the fee for the right to use the frequency or the identification code. The fee shall have its due date under the decision of the Office in the individual authorisation.

(2) The repeated fee under Subsection 1 shall be paid under the tariff of fees. The tariff of fees shall be determined by the generally binding legal regulation issued by the Office.

(3) The obligations under Subsections 1 and 2 shall not apply to the use of the frequencies which are defined for the military purposes in the national table of the frequency spectrum.

## **Section 36**

### **Operation of Terminal Equipment**

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<sup>29</sup>) For example, Section 54, Subsection 6 of Act No. 220/2007 Coll.

<sup>30</sup>) Section 54 and 63 of Act No. 308/2000 Coll., as amended by later regulations.

<sup>31</sup>) Section 26, Subsection 5 of Act No. 143/1998 Coll. on Civil Aviation (Aviation Act) and on Amendment of Other Acts, as amended by later regulations.

Section 24 of Act No. 338/2000 Coll. on Inland Traffic and Amendment of Other Acts, as amended by later regulations.

Section 17 and Section 52 of Act No. 435/2000 Coll. on Maritime Traffic, as amended by later regulations.

(1) Only the telecommunications equipment which complies with the conditions of the technical regulations issued under a special regulation<sup>32</sup> shall be made for operation, distribution or introduction onto the market.

(2) The undertaking shall be obliged to submit the Office for publishing the technical specification of the offered interfaces of the public networks on which the terminal equipment is to be connected, in the period not later than 15 days before putting the interfaces into operation. The Office shall administer the register of such interfaces and notify it to the European Commission.

(3) The details on the interoperability of the terminal equipment determined for the reception of digital television signal and the interoperability of the analogue and digital TV receivers shall be determined by a governmental decision.

(4) The general authorisation for use of frequencies for the operation of the radio equipment shall determine the conditions for the use of the frequencies not requiring the individual authorisation. In the general authorisation for the use of frequencies, the Office may restrict the use of frequencies only in order to:

- a) ensure the efficient use of frequency spectrum,
- b) prevent harmful interference, or
- c) ensure the protection of public health.

### **Section 37** **Special Professional Capability**

(1) The selected radio equipment shall be operated only by the natural person with the special professional capability for its operation. The special professional capability means the sum of theoretical knowledge and practical experience and knowledge of the generally binding legal regulations related to the operation of the selected radio equipment. A natural person without the special professional qualification may operate such equipment at training or schooling only when supervised by a person with the special professional capabilities. The operation may also be performed by the persons whom the Office acknowledged the special professional capability for the operation of the selected radio equipment.

(2) The Office shall verify the special professional capability in an exam and issue the certificate on the special professional capability. The Chairman of the Office shall establish the Examination commission and appoint and recall members thereof.

(3) The application on the issuance of the certificate on the special professional capability shall contain:

- a) Name, surname, the date of birth and the title of the applicant,
- b) Permanent residence address of the applicant,
- c) The required type of the certificate on the special professional qualification,
- d) The acquired educational level of the applicant, and
- e) The photograph of the applicant.

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<sup>32)</sup> Section 9, Subsection 3 and Section 12, Subsection 8 of Act No. 264/1999 Coll. on Technical Requirements on Compliance on Products and on Considering Compliance and on Amendment of Other Acts, as amended by later regulations.

(4) The obligation pursuant to Subsection 1 shall not apply to the operation of the selected radio equipment used by the divisions of the Ministry of Defence, Ministry of the Interior and Slovak Intelligence Service for the purpose of ensuring the state defence and state security, the protection of public order, life, health and property.

(5) The selected radio equipment means:

- a) The radio station operating in the short wave bands reserved for the telegraph and telephone traffic,
- b) Aircraft station,
- c) Aircraft earth station,
- d) Aeronautical station,
- e) Aeronautical earth station,
- f) Ship station,
- g) Ship earth station,
- h) Coastal station,
- i) Amateur station.

(6) The details on the selected radio equipment, establishment of the Examination commission, contents, scope and the course of the examination and certificates on the special professional capability shall be determined by a generally binding legal regulation issued by the Office.

(7) The natural person who is to operate the selected radio equipment on the ships obligatorily equipped by the equipment of the Global Maritime Distress Safety System (GMDSS) shall be obliged, prior to the trial, to pass a practical training in the schooling centre recognized by an international maritime organization. The natural person who is to operate the selected radio equipment equipped by the equipment GMDSS on the ships which are not obligatorily equipped by such equipment, shall be obliged, prior to the trial, to pass a practical training in the schooling centre recognized by the Ministry.

## **CHAPTER FIVE SUPERVISION**

### **Section 38 Scope and Measures of Supervision**

(1) Supervision shall be performed by:

- a) The scrutiny of the fulfilment of the obligations and conditions determined by this Act, general authorisations, decisions of the Office, generally binding legal regulations issued under this Act and the scrutiny of following the obligations, restrictions and conditions, if provisioned by a special regulation<sup>33</sup> or international agreement binding the Slovak Republic,
- b) The scrutiny of compliance with conditions for the introduction of telecommunications equipment and equipment that can be a source of electromagnetic interference, onto the market and into operation,
- c) The scrutiny of the technical status of the telecommunications equipment, networks and lines,

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<sup>33</sup>) For example Section 9 to 11, 40 to 54, 69 and 70 of Act No. 220/2007 Coll. as amended by Act No. 532/2010 Coll., Section 30 of Act No. 264/1999 Coll. as amended by Act No. 436/2001 Coll.

- d) The measures for the elimination of detected deficiencies,
- e) The protection against interference, including the monitoring and detection of the source of the interference of operation of networks, services and equipment,
- f) Imposing the protection measures.

(2) As a scrutinized person may be an undertaking or other person with obligations under this Act, a special regulation<sup>32</sup> or international agreement binding the Slovak Republic.

(3) The Office shall perform supervision under Subsection 1, Letter a) by the physical scrutiny at the scrutinized person, monitoring frequency spectrum or administrative control of the data and documents which are available to the Office within its administrative activity.

(4) The Office's employees authorised to exercise the supervision shall be, upon exercising the supervision:

- a) Authorised to enter the pieces of land and the premises in which the inspected facilities are located or where they are assumed to be located and execute the control pursuant to Subsection 1,
- b) Authorised to verify the identity of the controlled persons, their employees or the persons acting on behalf of the controlled persons, require the necessary documents, data and written and oral explanations from the controlled persons,
- c) Authorised in the justified cases temporarily to take away the facilities for the time inevitably necessary to perform the testing or control, of which they issue the supervised person a written acknowledgement,
- d) Obligated to prove their identity with their employee cards which authorise them to perform the control,
- e) Obligated to communicate the controlled person the found deficiencies in a written form; in a form of the minutes of the inspection results at the physical inspection,
- f) Obligated to keep confidential, in relation to third parties, the facts they have learned while exercising the inspection and in this connection.

(5) The controlled persons shall be:

- a) Obligated to tolerate the exercising of the supervision pursuant to Subsection 4, Letter a) to c) and provide the Office all the required information and documents,
- b) Authorised to express their opinion to the detected deficiencies within the period specified by the Office,
- c) Obligated to cover the costs of the tests to verify the compliance of the products with the technical regulations where it has been proved that the product characteristics are not compliant with the requirements of a technical regulation,
- d) Obligated within the period specified by the Office to remedy the found deficiencies and inform the Office in a written form about the remedy.

(6) Where absolutely necessary for the identification of the persons using frequencies and the complying with the conditions of the individual authorisation, the Office may get acquainted with the content of transmitted messages while monitoring the use of the allocated frequencies. The Office's employees entrusted by the exercising supervision in such a manner shall neither make available the content of the transmitted messages to other persons as the communicating parties of the transmitted message or their authorised deputies, nor make it possible for other persons to acquire the information about the content of the transmitted messages. The Office may store the content of the messages only for the period

inevitably necessary for completing the supervision and imposing the sanction under Section 69. After the period expires, the Office shall destroy that record.

(7) The Office shall:

- a) Determine the controlled person, in the written communication on found deficiencies or minutes on the inspection results, a proportionate period to take opinion on the inspection results,
- b) Verify substantiality of the objections expressed by the controlled person in relation to the found deficiencies, take account of the justified objections and get the controlled person acquainted with them,
- c) Impose the elimination of the found deficiencies within a proportionate period, specified by the Office; this shall not apply to the deficiencies under Section 31, Subsection 9 and Section 34, Subsection 3.

(8) The Office may impose the discipline penalty of up to 200 euros, and this also repeatedly, on the persons who obstruct exercising of supervision by failing to comply with the obligations stipulated in Subsection 5, Letter a).

### **Section 39**

(1) If the Office detects that the continuing provision of the service or the bundle of services would entail competition disruption, it shall issue a decision on the cessation or postponing the provision of such a service or bundle of services, and this so long until the undertaking fails to meet the obligations imposed on him under Section 18.

(2) If the Office detects that the deficiencies in the activity of the controlled person represent an immediate and serious threat to the public order, public security, public health, or serious economic or operational problems may arise as a result of such deficiencies to the other undertakings, users of networks or services or users of frequency spectrum, it may, in a written notification on detected deficiencies, forthwith impose a protectional measure aimed to remedy the situation.

(3) The controlled person may lodge objections, in a written form, to the protectional measure under Subsection 2 within the three working days since the delivery of the communication on the detected deficiencies and propose the manner of the elimination of detected deficiencies. A person directly superior to the persons who have imposed the protectional measure shall decide on the objections.

(4) The protectional measure shall be valid for a maximum of three months. The Office may extend this period up to three months in the justified cases by a written notification.

### **Section 40**

#### **Obligation to Provide Information**

(1) The undertaking or other person with rights and obligations under this Act shall be obliged on the basis of a written and reasoned application to submit the Office the information under this Act, a special regulation<sup>34</sup> or international agreements binding the Slovak Republic in the required scope, form and specified period.

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<sup>34</sup>) Act No. 220/2007 Coll., as amended by later regulations.

(2) On the basis of the request of the Office, the SMP undertaking shall be obliged to submit the information from accounting on the retail markets related to the respective wholesale markets.

(3) Besides the obligations under Subsections 1 and 2, the undertaking shall be obliged, on the basis of the reasoned request of the Office, to submit the information in the scope, form and proportionate period specified by the Office, which are proportionate and objectively necessary for:

a) Reviewing the compliance with the conditions pursuant to Section 14, Subsection 2, Letter d) and e), Section 31, Subsection 4, Letter d) and g) and Section 32, Subsection 9, Letter c) and h),

b) Reviewing the compliance with the conditions of the general authorisation upon receiving a submission or complaint, the dispute solution or in case the Office has other reasons to assume that a condition has not been fulfilled or in case that the Office investigates the subject matter on its own initiative,

c) Examination of the applications for the allocation of frequencies or identification codes and numbers,

d) Publishing the comparative surveys on the quality and price of services for the benefit of end users,

e) Defined statistical purposes,

f) Relevant market analyses,

g) Ensuring efficient use and effective administration of radio frequencies,

h) Evaluating the future development of networks or services that could have an impact on the wholesale services.

(4) The Office shall not request the information under Subsection 3, Letter a), b), d) to h) from the undertaking prior to the starting of provisioning a network or service or as the condition to start the provisioning thereof.

(5) If the Office requests the undertaking to provide information pursuant to Subsection 3, it shall be obliged to inform the undertaking about the purpose of the use of information.

(6) In addition to the obligation of the undertaking to provide statistical data for the purposes of the national statistical investigation under a special regulation<sup>35</sup>, the undertaking shall be obliged to provide the Ministry also other statistical data necessary for the compliance of the obligation of the Slovak Republic arising from an international agreement or membership in an international organisation.

## **PART THREE NETWORKS AND SERVICES**

### **CHAPTER ONE PROVISION OF NETWORKS AND SERVICES**

#### **Section 41**

(1) The undertaking providing a public service for the creation of national calls by means of a number or numbers from the national numbering plan shall be obliged to provide:

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<sup>35</sup>) Section 11, Subsection 2 of Act No. 540/2001 Coll. on State Statistics.



a) the free-of-charge access to emergency services by means of the single European emergency call number „112“ and other national emergency call numbers to end users, including the users of public pay phones,

b) to disabled end users, the access to emergency services equivalent to that access of other end users and to the utmost extent possible the access to the services provided within the numbering range beginning with number „116“.

(2) The undertaking that provides a public telephone service shall be obliged to handle all calls to and from the European telephony numbering space at rates similar to those applied for calls to and other Member States.

(3) The undertaking that provides a public service shall be obliged to ensure, where technically and economically feasible, except from cases when the called subscriber, for commercial reasons, has restricted the calling parties from specific geographical areas, that end users are able to access:

a) Services using non-geographic numbers within the European Union and use those services,

b) All numbers in the national telephone numbering plans of the Member States, European Telephony Numbering Space and International Freephone Numbers, irrespective of the technology and equipment that the undertaking uses.

(4) The undertaking that provides a public network or services shall be obliged, on the basis of a written request of an authority acting in a criminal proceedings and on its cost, for the reasons of preventing a fraud or misuse, to block the access to numbers or services provided by means of specific numbers and withhold interconnection or other services revenues. The application shall contain the specification of the period of the blocking duration. The undertaking shall not assume the responsibility for any damages incurred by exercising such an application.

## **Section 42**

### **Transparency and Publication of Information for the User**

(1) The Office in its general authorisation under Section 14, Subsection 2, Letter g) shall determine, to the undertaking that provides public networks or services, the extent of the information which the undertaking shall be obliged to publish in a comprehensible and easily accessible form, in particular:

a) Identification data of the undertaking,

b) Scope of services offered,

c) Standard contract conditions, including a possible minimal duration of the contract of the provision of public services and termination thereof and the procedures related to number portability and other identifiers,

d) Standard prices and information about the services provided and all price items, all types of usage charges, maintenance charges including the details of the standard discounts applied, special and targeted tariff schemes, the charges or costs of the subscriber related to the terminal equipment, direct charges related to the number portability or other identifiers,

e) Complaints procedure, including the details of offered manners of compensation,

f) Types of offered maintenance services,

g) Mechanisms for solving disputes, including the mechanisms offered by the undertaking,

- h) Information about the rights related to universal service, including tone dialling or dual-tone multi-frequency operation, presentation of calling line identification service and preventing the presentation of the calling line identification service under Section 60,
- i) Information about applicable prices related to all numbers or services with special price conditions; for special categories of service, to provide such information immediately prior to the establishing a call,
- j) Information about every change of access to emergency call services or information about calling party location within the service subscribed by him,
- k) Information about the changes of conditions related to the access to services and applications or use thereof,
- l) Information about the procedures applied by the undertaking aimed at traffic monitoring and control to prevent the filling or overfilling of the capacity of a network link and how those procedures might effect the service quality,
- m) Information about the right of the subscriber under Section 59, Subsection 2,
- n) Information for disabled subscribers about the details of products and services designed for them,
- o) Information for end users about the quality of the undertaking's services and measures adopted for ensuring equivalent access to the services for disabled end users; the undertaking shall be obliged to provide such information to the Office upon request prior to publication thereof.

(2) Information under Subsection 1 shall be transparent, comparable, adequate and up to date; in its general authorisation under Section 14, Subsection 2, Letter g), the Office may determine the additional requirements related to the manner and form of publishing the information.

(3) Where interactive guides or similar tools are not available on the market free of charge or at a reasonable price to make an independent evaluation of the cost of alternative usage patterns of services by end users, the Office may make available such guides or tools itself or through a third party procurement. The third parties shall have the right to use, free of charge, the information published by the undertakings providing public networks or public services for the purposes of selling or making available such interactive guides or similar tools.

(4) The undertaking providing a public network or service shall be obliged on the basis of a written request of a relevant authority<sup>36</sup> to provide information in the public interest free of charge to subscribers, by the same means as those ordinarily used by the undertaking when communicating with a subscriber. The undertaking shall provide information in the public interest in the adequate manner and for payment agreed upon between the undertaking and the respective authority. The respective authorities shall provide such information to the undertakings in a standardised format and cover in particular:

- a) The most common use of services for an unlawful activity or to disseminate a harmful content, particularly where it may relate to the maintaining of for rights and freedoms of other persons, including the infringement of copyright and related rights, and legal consequences thereof; and
- b) The means of the protection against risks to the personal security, privacy and personal data while using services.

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<sup>36</sup>) For example Act of National Council of Slovak Republic No. 171/1993 Coll. on Police Corps, as amended by later regulations.

### **Section 43**

#### **Rights and Obligations of Undertaking and User**

(1) The undertaking shall have the right to:

- a) Receive the payment for the public service provided,
- b) Compensation for the damage inflicted on a public network and public telecommunications equipment,
- c) Refuse to conclude a contract of the connection of public services, if:

- 1. The provision of a public service in the required location or required extent is not technically feasible, except for the provision of universal service under Section 50, Subsection 2, Letter a) or would be possible only by spending inadequate high costs,
- 2. The interested person does not provide the guarantee that he will observe the contract because he is a debtor of the undertaking or of another undertaking or some of those undertakings has already withdrawn from or disclaimed the contract with him,
- 3. The interested person does not agree with contract conditions on the provision of public services.

d) Temporarily interrupt or restrict the provision of a public service due to:

- 1. misuse of the service, and this so long until such misuse has been eliminated or technical measures to prevent such misuse have been implemented,
- 2. Failure to pay the due amount for the public service within the period specified in the contract of the provision of the public services until it is paid or the contract of the provision of public services expires; the provision of a public service may be temporarily interrupted only after a preceding due notice and expiration of the period specified for the payment, or
- 3. Substantial breach of other contractual conditions on the subscriber side; the provision of a public service may be temporarily interrupted only after a preceding due notice.

e) Require from the subscriber or his authorised deputy when concluding a contract of the provision of public services to submit his identity card, make a copy of his identity card or read the data from his identity card through the electronic means for the purpose of verifying the subscriber's data provided under Subsection 2, Letter b).

(2) The undertaking shall be obliged to:

- a) Conclude a contract of the provision of public services with every person interested in the provision of the public service if there is no reason for the refusal thereof under Subsection 1, Letter c),
- b) When concluding a contract of the provision of public services, to gather and verify the subscriber's data, including the subscriber using the prepaid services of the undertaking and keep records of such data to the extent under Section 56, Subsection 3, Letter a),
- c) In a written form, by electronic mail, short messages system (SMS) or telephone, inform the subscriber at least one month in advance about the substantial change of contractual conditions and at the same time his right to withdraw from the contract of the provision of public services without sanctions provided that he does not accept such changes; the notification duty shall be fulfilled also by notifying the subscriber that the contractual terms have changed substantially and where he may get the details about those changes.

(3) The undertaking providing a public telephone service shall be obliged to provide his subscribers with access to the telephone directory inquiry service.

(4) Where determined by the Office in the general authorisation under Section 14, Subsection 2, Letter g), the undertaking providing a public network or service shall be obliged to provide:

- a) Tone dialling or dual-tone multi-frequency operation, where technically and economically feasible, and presentation of calling line identification service in accordance with Section 60,
- b) The basic level of itemised bills, free of charge,
- c) Free of charge, selective barring of outgoing calls, SMS, premium multimedia messaging service (MMS) or, if technically feasible, selective barring of other types of similar applications,
- d) Option of pre-payment for connection to the public network and use of public telephone services,
- e) Option of phased payment for the connection to the public network,
- f) Information about proportionate and non-discriminatory procedures of the undertaking in case of non-payment of bills which make it possible, after a due and timely warning, to interrupt or disconnect the subscriber, except for fraud, permanent delay of payment or non-payment,
- g) Tariff advice,
- h) A tool for cost control of public telephone services, including free-of-charge alert of users in case of abnormal or excessive expenses,
- i) Where appropriate, access to public services for disabled users equivalent to that for other end users, including the option to choose undertakings,
- j) Free-of-charge information on cost control for the public service provided to the disabled user in the form of an SMS and voice message or electronic mail in case of Internet access service.

(5) When determining the extent of obligations under Subsection 4, the Office shall in particular take account of the general availability of particular tools which may be subject to such obligations.

(6) In case of a crisis situation, the undertaking shall ensure the provision and operation of a public network or service under a special regulation<sup>37</sup>.

(7) In case of an extraordinary event, the undertaking shall be obliged to ensure, to the necessary extent, preferential calls for crisis management bodies<sup>38</sup> and other partakers involved into the system of preferential connection and the operation of emergency calls on the affected territory.

(8) During the normal situation, the undertaking shall ensure the preparation of network and services for the period of crises situations and extraordinary events to ensure the communications between crises management bodies<sup>37</sup>.

(9) The end user shall have the right to conclude a contract of the provision of public services with one or more undertakings providing connection to a public network or service if there is no reason for the refusal under Subsection 1, Letter c).

(10) The subscriber shall have the right to:

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<sup>37)</sup> Article 1, Subsection 4 of Constitutional Act No. 227/2002 Coll.

<sup>38)</sup> Act of National Council of Slovak Republic No. 42/1994 Z. z. on Civil Protection of Citizens, as amended by later regulations.

Section 3 of Act No. 387/2002 Coll. on Managing State in Crises Situations out of Wartime and Belligerency, as amended by later regulations.

- a) Have cleared the faults, free-of-charge, during the provision of the public service, which were not inflicted by him,
- b) Reimbursement of the proportionate cost part for the period during which the public service has not been provided on the undertaking's part; he shall apply this right to the respective undertaking within the three months after renewal of the provision of the public service.

(11) The subscriber of a public telephone service shall have the right to:

- a) have an entry in the publicly available telephone directory referred to in Section 50, Subsection 2, Letter c) and to have their data available to the providers of telephone directory inquiry service or telephone directories,
- b) Access telephone directory inquiry service,
- c) Free-of-charge call to emergency services, including the single European emergency call number '112'; this shall apply also to the users of public pay telephones.

(12) The subscriber shall be obliged to:

- a) Use public service in accordance with this Act and the contract of the provision of public services,
- b) Pay for the public service provided under the contract of the provision of public services, and if the character of the service makes it possible, only on the basis of the submitted invoice,
- c) Use only telecommunications equipment fulfilling the requirements of special regulations<sup>20</sup>.

(13) If, despite a written notice of the undertaking, a subscriber is continuously longer than 90 days behind the schedule with fulfilling its monetary obligation to the undertaking, the undertaking may pass its pecuniary claim corresponding to that monetary obligation via a written contract to other person even without the subscriber's consent. The undertaking shall not apply such a right if the subscriber, prior to ceding the claim, has completely covered the monetary obligation behind the schedule, including the appurtenance to the undertaking. When ceding the claim, the undertaking shall be obliged to pass the cessionary also the documentation on the obligation relation forming the basis for the ceded claim.

#### **Section 44**

#### **Contract of Provisioning Public Services**

(1) Based on the contract of the provision of public services, the undertaking shall be obliged to establish the necessary access to a public network or provide respective services to the subscriber. The undertaking may issue general conditions and a price list which shall be a component of the contract. The contract of the provision of public services shall be in a written form; this shall not apply to pre-paid services, provision of services through public pay telephones and other public access points. The written contract of the provision of public services may be also amended by other form than a written one if agreed by the contracting parties; this shall not apply to the subscriber's obligations which under the Civil Code may only be arranged in a written form.

(2) The contract of the provision of public services shall contain:

- a) Identification data of the contracting parties to the extent under Section 15, Subsection 2,

b) Description of services provided, in particular information about:

1. Access to emergency call services and location data, including limitations when providing emergency call services,
2. Limitations related to access to services and applications or use thereof in accordance with special regulations<sup>39</sup>,
3. Minimal level of quality of services, in particular the period of first connection to the network or other indices where determined by the Office under Section 46,
4. Procedures of the undertaking when monitoring and controlling the traffic aimed at the prevention of network connection overloading and information about the effect of such procedures on quality of service,
5. Types of maintenance services, support services and the contact data on such services,
6. Limitations applied by the undertaking for the use of the provided terminal equipment,

c) Option of the subscriber to publish or not to publish his personal data in the telephone directory and telephone directory inquiry service and option to decide himself which personal data are to be published under Section 59, Subsection 2,

d) Details of prices, including means to receive up-to-date information about applicable prices, maintenance charges, payment methods offered and the differences in the subscriber's cost due to the payment method,

e) Information about the deadlines and the billing method for the provided services,

f) The duration of the contract of the provision of public services, the conditions for renewal or termination thereof, including the minimal conditions of use or duration of the service which shall be fulfilled to take advantage of the actions promoting sale, charges related to the number portability and other identifiers, charges payable when terminating the contract of the provision of public services and the compensation of cost related to terminal equipment,

g) Compensation and payment methods to be applied in case of failing to reach the contracted level of quality of services,

h) Method of settling the disputes under Section 75,

i) Types of measures which may be taken by the undertaking in case of breach of the security or integrity of the network or threat or damage thereof.

(3) The data referred to in Subsection 2 may be stated in any part of the contract of the provision of public services, including the general terms or price list; this shall not apply to the data which shall be stated explicitly in a written copy of the contract of the provision of public services if the contract of the provision of public services under Subsection 1 is written:

a) Time limit of the first connection to the network,

b) Restrictions introduced by the undertaking on the use of terminal equipment supplied to the subscriber by the undertaking,

c) Option of the subscriber to publish or not to publish his personal data in a telephone directory or telephone directory enquiry service and to determine the personal data to be published under Section 59, Subsection 2,

d) Price or source, a method and possibilities for obtaining the information about the price,

e) Information about the accounting period and manner of billing in case of the invoiced services,

f) The Duration of the contract including the minimal conditions for use or duration of the service.

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<sup>39)</sup> For example Act No. 618/2003 Coll. on Copyright and Right related to Copyright (Copyright Act), as amended by later regulations.

(4) Where a subscriber, who is a natural person, commits himself to use a certain public service of an undertaking for a certain minimum period, the duration of such a period at the initial conclusion of the contract to provide a public service shall not exceed 24 months; at the same time the undertaking shall be obliged to offer the user a possibility to conclude a contract to provide public services with a maximum duration of 12 months. Without prejudice to the minimum period of the contract to provide public services, the undertaking shall be obliged to ensure that the contractual conditions and procedures for the contract termination do not discourage the subscriber to change the service provider.

(5) The refusal of the offer, on the subscriber's part, to use additional undertaking's services shall not be conditioned by the undertaking to a written form.

(6) The subscriber shall have the right to withdraw from the contract of the provision of public services without sanctions if:

a) He does not accept substantial modification of the contractual conditions, and this not later than within one month from the notification of a substantial change concerned which was notified to the subscriber by the undertaking; if the undertaking has not informed about the substantial modification of the contractual conditions, the subscriber has the right to withdraw from the contract of the provision of public services within one month since learning of the modification, not later than three months from the adoption of the substantial modification of the contractual conditions, the subscriber shall have no right to withdraw from the contract under this provision provided that the change of contractual terms is explicitly or implicitly caused by the change of a generally binding legal regulation or decision of a public administration authority or European Union body,

b) Despite the repeated admitted complaint, the undertaking does not provide the service under the contract of the provision of public services or in determined quality, the subscriber shall have the right to withdraw from the contract of the provision of public services within one month since the date of the delivery an announcement of recognizing the repeated complaint of the subscriber provided that such violation of obligations of the undertaking still persists.

c) The undertaking does not inform the subscriber about the results of examining the complaint under Section 45, Subsection 2, the subscriber shall have the right to withdraw from the contract of the provision of public services within one month since the date of elapsing the period for the announcement of the result of settling the claim under Section 45, Subsection 2.

(7) Where on the basis of a contract of the provision of public services more public services are provided, the subscriber shall have the right to withdraw from the contract for the reasons stated in Subsection 6 only in relation to that public service or part of the public service that shall be explicitly concerned by the reason for withdrawing or whose provision cannot be separated technically from the public service which is explicitly in question by the reason for withdrawing.

(8) The undertaking may withdraw from the contract of the provision of public services if the subscriber:

a) repeatedly, without authorisation, interfered with the facilities of a public network, or enabled such interference to a third party, even due to negligence,

b) Failed to pay the price for the service provided within 45 days following the due date,

- c) Connects to public network the equipment that does not meet the conditions of special regulations<sup>20</sup>), or uses such equipment in contradiction to the approved conditions and has not disconnected it even upon the request of the undertaking,
- d) Repeatedly, uses the public service in a manner preventing the undertaking to control use thereof,
- e) Repeatedly, violates the terms of the contract of the provision of public services.

(9) The subscriber may disclaim the contract of the provision of public services concluded for the indefinite period for any reason or without stating a reason.

(10) The undertaking may disclaim the contract of provision of public services if it cannot continue to provide the public service to the agreed extent or necessary quality due to technical infeasibility of further service provision, with exception of universal service provision. In case the undertaking disclaims the contract of the provision of public services due to the modernisation of the public services which entails the termination of the provision of the public service under the concluded contract of the provision of public services, the undertaking shall be obliged to deliver a notice of termination to the subscriber including an offer for the provision of other service, from the technical and price viewpoint similar to the public service, and preferential installation thereof.

(11) The period of notice shall be the same for both contractual parties.

#### **Section 45 Complaints Procedure**

(1) In its complaints procedure, the undertaking shall govern in particular:

- a) Details of the right of the subscriber to make a complaint,
- b) The method of execution and settlement of the complaint,
- c) The period for lodging and settlement of the complaint,
- d) The manner of exercising the subscriber's right under Section 43, Subsection 10, Letter b).

(2) The right to make a complaint shall not be restricted by the complaints procedure where exercised within the period specified in the complaints procedure; such a period shall not be shorter than 30 days since the date of the delivery of an invoice which correctness is subject to the complaint or detection of a fault of a public service provided or equipment thereof. The undertaking shall be obliged to inform the subscriber in writing of the results of the examining their complaint within the period which shall be no longer than 30 days since the date of the delivery of the complaint, otherwise the claim shall be deemed to be admitted. In complex cases, the undertaking may extend the period, no more than 30 days; the undertaking shall be obliged to inform, in advance, the subscriber in writing about the extension before the end of the 30-days period including the reasons. The period is kept if the undertaking sends its notification to the subscriber in the last day of the period at the latest.

(3). The complaint in terms of examining the invoice shall not have a postponing effect on the payment for the provided public services. If the amount 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 a part of the amount exceeding the average monthly extent of use of the public service during the preceding six months, and this not later than until the end of the examination of the telecommunications equipment or



enable the subscriber to pay a part of the amount exceeding three times the average monthly extent of use in minimum of three monthly instalments. If the use of a public service was shorter than six months but longer than one month, the average extent of the use of the service is calculated for the whole period of the use of the service.

(4) Where, on the basis of a complaint, a defect on the telecommunications equipment is detected, which could showed to the detriment of the subscriber, but neither the extent of the provided public service nor the price thereof can be provably determined, the subscriber 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 public service has been shorter than six months but longer than one month, the average extent of use of public service shall be calculated for the whole period of use of the service.

## **Section 46**

### **Quality of Services**

(1) In the general authorisation under Section 14, Subsection 2, Letter g), the Office may determine the indices of the quality of public services for end users to be measured and the content, form and manner of publishing the information on the quality indices, including quality certification mechanisms, to ensure that end users, including disabled end users, have access to comprehensive, comparable, reliable and user-friendly information. Where appropriate, the quality indices under Section 51, Subsection 1 may be used.

(2) In the general authorisation under Section 14, Subsection 2, Letter g), the Office may determine the minimum of quality of service requirements which the undertaking shall fulfil in order to prevent degradation of quality of service, hindering or slowing down of traffic over networks.

(3) Prior to setting the minimum of quality of service requirements under Subsection 2, the Office shall provide a reasoned requirements draft to the European Commission and Body of European Regulators. The Office shall take the utmost account of the European Commission's comments and recommendations.

## **Section 47**

### **Accounting of Certain Undertakings and Financial Reports**

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

- a) Within the Member States, it has special or exclusive rights for the provision of services in other sectors than electronic communications sector,
- b) Its revenues in the previous accounting period for the provision of networks or services in the entire territory of the European Union was at least 50 million euros.

(2) The undertaking providing a public network or public service exclusively in the territory of the Slovak Republic and engaged in 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 for those other activities in order to avoid to favour or disadvantage certain services by cross-financing of other activities and vice versa.

(3) The undertaking providing a public network or public service, which is not legally obliged to carry out independent auditing<sup>40</sup>, shall be obliged to provide the Office, upon request, its financial statements for the inspection. The Office may examine such financial statements and publish the result of the examination.

## **Section 48**

### **Number Portability**

(1) The undertaking shall be obliged to ensure for its subscribers, with telephone numbers under the national numbering plan, which make a request to retain their telephone numbers, irrespective of the undertaking that provides the service, in case of:

- a) Geographic numbers within a geographically defined numbering space determined by the Office at the specific place of the subscriber's connection, and
- b) Non-geographic numbers in any location.

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

(3) When ensuring number portability, the undertakings shall be obliged to charge mutually such a price that is cost-oriented. To ensure such an obligation, the Office may issue, following the consultations under Section 10, a decision on the price calculation method under Section 12, Subsection 3, Letter c). Based on such a decision, the undertaking shall be obliged to calculate and publish the prices and justification thereof, within two months of the decision's publication in the Journal; provisions Section 12, Subsection 5 shall not apply. Where the undertaking requires from its subscribers direct payments for the services related to number portability, the prices of such services shall not act as disincentive for their use. To ensure such an obligation, the Office may, following the consultations under Section 10, issue a decision determining the maximum amount of direct payments of subscribers for the services related to number portability. Such a decision shall be binding for all undertakings and takes effect 30 days from its publishing in the Journal.

(4) The undertaking shall be obliged to port and activate the number to the subscriber within the shortest possible time; the subscriber who has concluded an agreement on number portability to a new undertaking, shall have the number activated within one working day.

(5) Throughout the number porting process to a new undertaking, the undertaking shall be obliged to ensure that the subscriber shall not have ported his number to another undertaking against his will.

(6) The undertaking responsible for the delay in porting or porting to another undertaking against the subscriber's will, in the number porting process, shall be obliged to compensate the subscriber; this is without prejudice to the right for damages.

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<sup>40</sup>) Section 19 of Act No. 431/2002 Coll. on Accounting, as amended by later regulations.

(7) The details concerning number portability, the administrative procedure of number porting and compensation under Subsection 6 shall be determined by a generally binding legal regulation issued by the Office.

### **Section 49**

#### **Installation and Operation of Special Networks**

(1) The special network is installed and operated for military purposes only for a specified circle of persons; the special network is not a public network.

(2) The Ministry of Defence, the Ministry of the Interior, the National Security Office and the Slovak Intelligence Service shall have the right to install and operate special networks.

(3) For military purposes, the Ministry of Defence shall be obliged to plan the use of frequency spectrum defined in the national table of the frequency spectrum.

(4) The operators of special networks shall neither provide public services nor enable the provision of such services by means of special networks to third parties.

(5) The connection of the special network to a public network shall be realised only in case of an important national interest, based on the request of the operator of the special network. The operator of the public network shall be obliged to satisfy the justified request, if technically feasible.

(6) Sections 66 to 68 shall apply to special networks and telecommunications equipment thereof.

## **CHAPTER TWO**

### **UNIVERSAL SERVICE**

#### **Section 50**

(1) Universal service means a minimum set of services that are available in the specified quality in the whole territory of the Slovak Republic to all end users regardless of their geographic location and at the affordable price which is the price taking account of the retail prices level income of inhabitants.

(2) The scope of universal service shall be to:

a) Satisfy all reasonable requests for one connection to the public network in fixed location; such a connection shall be capable of supporting voice, facsimile and data communications at transmission rates that is sufficient to permit functional Internet access taking into account technological feasibility and prevailing technologies used by the majority of subscribers,

b) Satisfy all reasonable requests to provide the public telephone service within network connection under Letter a),

c) Issue and make available a comprehensive telephone directory, regularly updated at least once a year, in an electronic and printed form or in electronic form or printed form; the comprehensive telephone directory shall contain data of all subscribers of public telephone services, apart from those who requested non-publishing their personal data under Section 59, Subsection 2.

- d) Ensure the reasonable availability of public pay telephones or other public telephone access points, including the provision of emergency call services from public pay telephones by means of single European emergency call number „112“ and other national emergency call numbers, free of charge and without the need for use of payment means,
- e) Provide at least one comprehensive telephone directory inquiry service for end users, including end users of public pay telephones,
- f) Provide for equivalent access to public telephone services and equivalent availability of services under Letters b), c), and e) equivalent to that of other end users, including the possibility of carrier selection for disabled users<sup>19</sup>.

(3) On the basis of the consultations results under Section 10, the Office shall determine one or more undertakings to provide universal service and impose on them obligations pursuant to Subsection 2 so that the whole territory of the Slovak Republic is covered, while it may determine different undertakings or a group of undertakings which will provide only for some obligations of universal service, cover different parts of the territory of the Slovak Republic or provide only for some obligations of universal service and cover different parts of the territory of the Slovak Republic. Where the Office detects that equipment or services comparable to equipment or services which are subject to universal service are generally available, it does not need to impose the respective obligation under Subsection 2 in the whole territory or part of the territory of the Slovak Republic.

(4) When imposing the obligations under Subsection 2, Letter f), the Office shall consider the general need and specific requirements on the services for disabled users. The Office may impose the obligation in particular:

- a) To lease or sell, if requested by a disabled user, a specially equipped telecommunications terminal equipment adequate to its handicap for the price of a standard telecommunications terminal equipment,
- b) To provide for barrier-free access to public pay telephones, their availability and special arrangement.

(5) The Office at the designation of the undertaking under Subsection 3 shall not exclude any undertaking in advance. The Office shall take into account in particular financial, technological, professional aspects of the undertaking and undertaking's capability to provide universal service in a cost-effective manner and requested quality.

(6) Where no undertaking shows the interest in the provision of universal service or no undertaking that shows the interest but does not comply with the conditions under Subsection 4, the Office shall designate one or more undertakings which comply with those conditions most to provide universal service.

(7) In the decision under Subsection 3, the Office shall determine the details for fulfilling particular obligations and a period for the fulfilment. When imposing obligations under Subsection 2, Letter d), the Office shall take into account justified needs of end users in terms of geographic coverage, number of public pay telephones or other access points, accessibility to disabled end users and the quality of service.

(8) The Office shall examine whether the reasons still last on which it has designated the undertaking to provide universal service and imposed obligations under Subsection 2 on it. Where the Office detects that comparable equipment or comparable services are generally available or the circumstances on which basis it imposed the undertaking the obligation under Subsection 2 changed, it shall withdraw or change the obligation in question by a decision.

Where the Office detects reasons to change the undertaking designated to provide universal service, it shall withdraw the decision on designation of the undertaking to provide universal service and continues under Subsection 3. The decision draft on the change or withdrawal of obligations under Subsection 2 shall be consulted by the Office under Section 10.

(9) When the undertaking designated to provide universal service with the obligations under Subsection 2, Letter a) and b) intends to dispose its local area network or a substantial part thereof to a separate legal person under different ownership, it shall be obliged to inform the Office four month in advance, in order to allow to assess the effect of the intended transaction on the fulfilment of obligations under Subsection 2, Letter a) and b). The Office may impose, amend or withdraw the obligations imposed on the undertaking designated to provide universal service.

(10) The undertaking designated to provide universal service with the obligations referred to in Subsection 2, Letter c) and e) shall be obliged to treat the data that has been provided to it by other undertakings in a non-discriminatory manner.

(11) The Office shall be obliged to notify the European Commission:

- a) The universal service obligations imposed on designated undertakings and without delay any changes in terms of such obligations,
- b) The undertakings designated to provide universal service and any changes thereof.

## **Section 51**

### **Quality of Universal Service**

(1) In the decision under Section 50, Subsection 3, the Office shall be obliged to determine quality indices and target values of universal service and the methods of their measurements in accordance with technical standards; the Office may determine also a form and manner of their publishment. Depending on technological progress, the Office may change the quality indices set. At specifying target values, the Office shall take into account the opinions of persons concerned, obtained under Section 10. Quality of universal service shall be based on these indices:

- a) Time limit of initial connection,
- b) Fault rate per subscriber line,
- c) Fault repair time,
- d) Response time of telephone directory enquiry service,
- e) A ratio of fully functional coin and card operated public pay telephones,
- f) Bill correctness complaints.

(2) The undertaking designated to provide universal service shall be obliged to submit the Office the quality results obtained under Subsection 1 referenced to 30 June and 31 December, every year, and publish them on the undertaking's website.

(3) The Office may carry out or commission to carry out, at the expense of the undertaking designated to provide universal service, an independent verification of the quality of service results in case the undertaking repeatedly fails to meet target values, in order to check the correctness and comparability of provided information.

## **Section 52**

### **Control of Expenditures by Subscriber and Affordability of Universal Service Price**

(1) When provisioning equipment or other services which exceeds the framework of universal service provision, the undertaking designated to provide universal service shall be obliged to specify contractual conditions in such a manner that the subscriber does not have to pay for the equipment or service that are neither necessary nor required for the requested service.

(2) The Office may impose on the undertaking designated to provide universal service the obligation to provide to subscribers:

- a) Basic level of itemised bills, free of charge, to control expenditures when using the public network at fixed location or respective public telephone services; the Office shall determine the basic level of itemised bills in a decision under Section 50, Subsection 3,
- b) Free-of-charge selective barring of certain types of outgoing calls, SMS or premium MMS services or, if technically feasible, other types of similar applications, on the basis of subscriber's request addressed to the undertaking,
- c) Option of pre-payment for the access to public network and use of public telephone services,
- d) Option of phased payment for establishing access to public network,
- e) Information about proportionate and non-discriminatory measures in case of non-payment of bills which make it possible, after a previous provable noticing of the subscriber, to suspend or disconnect the subscriber; such measures shall not apply to cases of fraud, permanently repeated delays of payment or non-payment,
- f) Upon subscribers' request, the information about lower prices applicable,
- g) Other possibilities to control expenditures on public telephone services, including a free-of-charge notice in case of unusual or inadequate expenditures.

(3) The Office may waive to impose the obligation under Subsection 2 in part or all territory of the Slovak Republic if the services listed in Subsection 2 are generally available.

(4) The Office shall monitor the evolution and level of prices of the services falling under universal service obligations under Section 50, Subsection 2, in particular related to the domestic retail prices for end users and their incomes.

(5) In its decision under Section 50, the Office may impose the obligation to provide end users with the tariff options which depart from the tariffs under normal commercial conditions and which allow access to network and services for end users on low incomes or with special social needs.

(6) The Office may regulate the tariffs related to the provision of universal service under Section 12 in such a manner that the undertaking designated to provide universal service uses common tariffs in all the territory of the Slovak Republic, averaged geographical tariffs or does not exceed maximum tariffs.

### **Compensation of Net Costs for Universal Service**

## **Section 53**

(1) The undertaking designated to provide universal service shall have the right for compensation of identified net costs related to carrying out the universal service obligation if

the provision of universal service is an unfair burden for the undertaking. The undertaking may submit a request, including supporting documents, for the net costs compensation to the Office within two years from the closing of the financial year in which the costs arose, otherwise the right for compensation shall expire.

(2) On the basis of the undertaking's request containing the supporting data for net cost calculation, the Office shall assess whether the undertaking fulfils the obligations arising from the provision of universal service in a cost-effective manner and whether the provision thereof may be an unfair burden for the undertaking. The Office shall verify or check the supporting data for net cost calculation and consult accounting books and records itself or through a professionally capable and independent person entrusted by the Office; the Office shall publish the results of the verification of the supporting data.

(3) Where the Office detects that the provision of universal service is an unfair burden for the undertaking, it shall calculate the net cost while taking account of any possible market benefit which the respective undertaking accrues by the provision of universal service and determine the amount of net cost compensation. The Office shall publish the net cost calculated and the method of calculation thereof.

(4) The partaker of the proceedings on net cost compensation shall only be the undertaking designated to provide universal service which submitted a request under Subsection 1.

#### **Section 54**

(1) Where applicable, the Office shall establish and administer a special universal service account (hereinafter referred to as "special account") for compensation of net costs, into which the undertaking providing public networks or public services whose annual turnover share in the domestic market of public network or public service is equal or exceeds 0.2 percent shall be obliged to contribute; revenues for the provision of retransmission services<sup>41</sup> shall not be included into the turnover.

(2) The Office shall determine the amount of compensation to the special account for every undertaking individually. The amount of the compensation shall be derived from the share of annual domestic turnover for the provision of public networks and public services in the relevant financial year.

(3) If the special account is established, the undertaking shall be obliged annually to inform, upon request, the Office on its turnover in the particular market, even with retroactive validity. For this purpose, the Office may consult accounting books and records either itself or via a professionally capable and independent person entrusted by the Office, and if it is not possible to obtain the undertaking's turnover, the Office may make an assessment.

(4) The Office shall annually publish a report on economy of the special account which shall include the amount of net cost compensation, market benefits that the undertaking accrued by the universal service provision, and specified contributions of particular undertakings.

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

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<sup>41</sup>) Section 3, Letter f) of Act No. 308/2000 Coll., as amended by later regulations.

(6) The undertaking contributing to cover net costs shall be obliged to pay its share specified by the Office to the special account within three months from the adoption of the decision.

(7) The details on the net cost compensation, procedure to assess an unfair burden, and establishment and administration of the special account shall be defined by a generally binding legal regulation issued by the Office.

## **PART FOUR**

### **PROTECTION OF PRIVACY AND PERSONAL DATA**

#### **Section 55**

(1) In order to protect their rights and justified interests, the undertakings that provide public networks or services shall have the right mutually to provide data necessary under Section 56, Subsection 3 if they relate to their debtors or persons about whom the undertaking has found out that they stole or damaged or misused telecommunications equipment or services, and this for the purpose of assessment under Section 43, Subsection 1, Letter c, point 2 and for more effective protection of undertakings against such persons, unless stipulated otherwise by this Act.

(2) Communication means any information exchanged or conveyed between a finite number of parties by means of a public service; apart from the information conveyed as part of radio or television broadcast through a network which cannot be related to an identifiable user receiving the information.

(3) The undertaking that provides a public network or service shall be obliged to ensure technically and organisationally confidentiality of communications and the related traffic data which are conveyed by means of its public network and public services. It shall be prohibited in particular tapping, listening, storage or other kinds of interception or surveillance of communications and the related data by persons others than users or without the consent of the users concerned, unless stipulated otherwise by this Act. This shall not prevent the technical storage of data which is necessary for the conveyance of communications without prejudice to the principle of confidentiality. The undertaking shall not be held liable for protection of the conveyed information if such information can be directly listened to or obtained at the location of broadcasting or location of reception.

(4) The ban under Subsection 3 Sentence 2 shall not apply to the temporary recording and storing messages and the related traffic data if it is necessary for the provision of value added services ordered by a subscriber or user, to prove a request to establish, change or withdraw the service or to prove the existence or validity of other legal act which the subscriber, user or undertaking has made.

(5) Every person that stores or gains access to information stored in the terminal equipment of a user shall be authorised for that only if the user concerned has given his consent on the basis of clear and comprehensive information about the purpose of the processing; for this purpose the consent shall be also the use of a respective setting of the web browser or other computer programme. The obligation to gain the consent shall not apply to a body acting in criminal proceedings or other state body. This shall not prevent any technical storage of data or access thereof for the sole purpose of the conveyance or facilitation of the conveyance of a communication by means of a network or if it unconditionally necessary for the provider of



an information society service to provide information society services if explicitly requested by the user.

(6) For the purposes of this Act, other state body means armed security corps, armed corps and the state body which to the extent defined by special regulations<sup>42</sup> fulfil tasks in the sphere of protection of constitutional establishment, inner order and state security. For the purposes of fulfilling the tasks in the sphere of protection of constitutional establishment, inner order, state security and protection, other state body may process and store data of subscribers gained from the undertaking under this Act.

## **Section 56**

### **Protection of Personal Data**

(1) Protection of personal data shall apply to the subscribers and users who are a natural person. The rights and obligations of the operator, which is the undertaking, related to protection of the personal data that are not governed by this Act shall be governed by a special regulation<sup>43</sup>.

(2) The undertaking shall be obliged to take appropriate technical and organisational measures to safeguard security of its services and if necessary in conjunction with the provider of a public network. The adopted measures shall ensure such a level of service security which is adequate to existing risk in terms of technology status and cost of their implementation.

(3) For the purposes of conclusion and fulfilment of a contract of the provision of public services, amendment thereof, termination or number portability, billing, reception and registration of payments, claims and claim transfer and producing a directory of subscribers, the undertaking providing public services may obtain and process personal data of users which shall be telephone number, amount of unpaid obligations and:

- a) Name, surname, degree, permanent residence address, birth certificate number, identity card number or other identity document of a natural person, citizenship,
- b) Business name and place of business and identification number of a natural person – undertaking, or
- c) Business name and place of business and identification number of a legal person.

(4) The undertaking shall be obliged to inform the subscriber of the types of personal data which are gathered and processed, on the legal reason, purpose and duration of processing thereof. Such information shall be provided at the latest at the conclusion of a contract of the provision of public services.

(5) In case of a personal data breach, the undertaking that provides public services shall be obliged:

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<sup>42)</sup> Act of National Council of Slovak Republic No. 46/1993 Coll. on Slovak Intelligence Service, as amended by later regulations.

Act of National Council of Slovak Republic No. 171/1993 Coll., as amended by later regulations.

Act of National Council of Slovak Republic No. 198/1994 Coll. on Military Intelligence, as amended by later regulations.

Act No. 652/2004 Coll. on Bodies of State Administration of Customs and Amendment of Other Acts, as amended by later regulations.

<sup>43)</sup> Act No. 428/2002 Z. z. on Protection of Personal Data, as amended by later regulations.

- a) To notify, without delay, the Office a personal data breach,
- b) To inform, without delay, the subscribers and users concerned about the personal data breach, which may adversely affect their personal data or privacy; this shall not apply if the undertaking has demonstrated to the Office that it has implemented appropriate technological protection measures and that those measures were applied to the data concerned by the security breach; such technological protection measures shall render the data unintelligible to the persons not authorised to access it,
- c) Upon the request of the Office, to inform subscribers and users concerned about the personal data breach where the personal data breach may have an adverse impact on subscribers and users concerned; this shall not apply where the undertaking acted under Letter b),
- d) To maintain an inventory of cases of personal data breach, which shall comprise substantial facts related to the breach, its effects and the adopted remedial actions; the inventory shall only comprise the information necessary for this purpose.

(6) The information under Subsection 5, Letter a) shall comprise in particular:

- a) Nature of the personal data breach,
- b) Effects of the personal data breach,
- c) Measures proposed or carried out by the undertaking to mitigate the adverse effects of the personal data breach,
- d) Date of the personal data breach,
- e) Date of the finding a personal data breach by the undertaking.

(7) The information under Subsection 5, Letter b) shall comprise in particular:

- a) Description and manner of the personal data breach,
- b) Contact points where more information can be obtained, and
- c) Measure recommended to mitigate adverse effects of the personal data breach.

(8) The undertaking shall establish the internal procedures for responding to the requests for access to users' personal data. The undertaking upon the request shall provide the Office the information about such procedures, number of requests received, legal justifications invoked and the undertaking's response; this shall not apply in terms of fulfilling obligations of the undertaking defined by the Act.

(9) The Office may:

- a) Where applicable, to determine the circumstances under which the undertaking that provides public services shall be obliged to notify cases of the personal data breach under Subsection 5, Letter a) a b), determine forms and the manner in which the notifications are to be made, while observing measures of the European Commission.
- b) To scrutinize the fulfilment of notification obligation under Subsection 5, Letter a) and b).

## **Section 57**

### **Traffic Data and Location Data**

(1) Traffic data means any data related to the user and the particular conveyance of information in the network and arising during such a conveyance, which are processed for the purpose of conveyance of a communication in the network or for billing purposes.

(2) Location data means any data processed in a network or by a service that indicate the geographic location of the terminal of a user of a public service. The undertaking may process

location data other than traffic data which relate to a subscriber or user of a public network or public service only if they are made anonymous or with their consent, and in the scope and time necessary for the provision of a value added service. The undertaking shall be obliged to inform the subscriber or user, prior to obtaining its consent on location data other than traffic data which will be processed, on the purpose and duration, and whether the data will be provided to a third party for the purposes of the provision of the value added service. The subscriber or user may revoke its consent for the processing of the location data anytime.

(3) Value added service means a service that requires processing of traffic or location data other than traffic data required for transmission of communication or billing thereof.

(4) Traffic data related to subscribers or users shall not be stored without the consent of the person concerned and the undertaking shall be obliged, after the end of a communication transmission, without delay, to destroy or made anonymous except from the cases defined by this Act. This is without prejudice to the data storing under Section 58.

(5) If it is necessary for the billing of subscribers and network interconnection payments, the undertaking shall be obliged to store the traffic data until the expiration of the period, during which the bill may be legally challenged or the claim for the payment may be asserted. The undertaking shall be obliged to provide traffic data to the Office or court in case of a dispute between undertakings or between an undertaking and a subscriber. In case of the initiation of a claim, an out-of-court dispute resolution or court proceedings, in particular the disputes related to the network interconnection or billing, the undertaking shall be obliged to store the traffic data until the expiration of the period during which all legal means be used, and this until their closing. The scope of the stored traffic data shall be limited to the inevitably necessary minimum.

(6) Traffic data under Subsections 4, 5 and 7 shall be processed only by persons acting as the entrusted or on the basis of power of attorney of the undertaking in the scope necessary for the purposes of ensuring the network traffic control, billing, answering user requests, exposing frauds, cooperation with other state bodies under Section 55, Subsection 6, service marketing purposes or for the provision of value added service.

(7) The undertaking may process the traffic data of a subscriber or user for the purposes of marketing services or purposes of ensuring the value added services only with its prior consent. The undertaking shall be obliged to inform the subscriber or user prior to obtaining its consent about the type of traffic data, the purpose of traffic data processing and time of data processing. The subscriber or user may withdraw, anytime, its consent given for the processing of the traffic data for the marketing purposes or ensuring the value added services.

(8) Where the subscriber or user has given its consent for the processing of location data other than traffic data, the undertaking shall be obliged to enable him, by a simple means and free of charge, temporarily refuse the processing of such location data for each connection to the network or each transmission of a communication.

(9) Processing of location data under Subsections 2 and 8 shall be restricted to the persons acting under the authority of the undertaking that provides public networks or public services or of a third party that provides the value added service and shall be restricted for the purposes necessary for providing the value added service.

(10) In case of emergency calls, the undertaking may obtain and process and shall be obliged to provide, free of charge, the coordination centre of the integrated rescue system or the operation centre of emergency call with the calling line identification and location data, and this also in case that the calling party uses the service of the elimination of the presentation of calling line identification or has not given its consent to the processing of location data; where the user concerned is the Slovak Intelligence Service, the undertaking shall be obliged, without delay, to inform the Slovak Intelligence Service about the provision of such data. The coordination centre of the integrated rescue system and the operation centre of emergency call shall be taken responsible for any detriment incurred by misuse of the provided information on personal data and location data from the moment they are provided with the requested data.

(11) With regard to emergency calls, the undertaking shall be obliged to provide presentation of calling line identification by:

- a) Presentation of the telephone number,
- b) Presentation of the name, surname and permanent residence address or business name and site or place of business.

(12) In case of a call from a mobile telephone network where the calling party number is not available, the undertaking shall provide the presentation of international mobile equipment identification (IMEI); IMEI means a unique identification of a mobile terminal equipment functioning as a controlling technical measure to identify the goods.

(13) The details about the provision of the calling party identification and provision of location data under Subsection 10 shall be provided by a generally binding legal regulation issued by the Ministry of the Interior after the agreement with the Ministry.

## **Section 58**

(1) User identification means a unique identification code, login name, or other unique mark assigned to a subscriber at the conclusion of the contract of the provision of public services or to a user during a registration of the Internet access services or communications services via Internet.

(2) Cell identification (cell ID) means the identity of the radio mobile network cell from which a call via a mobile terminal equipment originated or terminated.

(3) For the purposes of retaining data under Subsections 5 to 8, telephone service means the calls including telephone calls, voicemail, conference calls and data transmission, supplementary services including call forwarding and call transfer and messaging and multimedia services including SMS, enhanced media services (EMS) and MMS.

(4) For the purposes of retaining data under Subsections 6 and 7, unsuccessful call attempt means the call which has been successfully connected to the calling party terminal equipment but such a call has not been answered by the called user or his terminal equipment or there has been a network management intervention.

(5) For the purposes under Subsection 7, the undertaking shall be obliged to retain traffic data, location data and data of the parties who communicated from the date of making the communication during:

- a) Six months in case of Internet access, Internet electronic mail and telephoning through Internet, and
- b) Twelve months in case of other types of communication.

(6) The undertaking shall retain data under Subsection 5 in the scope in which it produces or processes while provisioning a service or network. The undertaking shall retain the data under Subsection 5 related to the unsuccessful call attempts which the undertaking produces or processes and retain in terms of the telephone numbers, or records in case of the Internet data. The data related to unconnected calls shall not be retained. The list of data which the undertaking shall be obliged to retain under this Subsection and Subsection 5 is referred to in Annex 2.

(7) On the basis of a written request and without delay, the undertaking shall be obliged to provide data retained under Subsections 5 and 6 including the subscriber's data in the scope under Section 63, Subsection 1, Letter b) under conditions set in Section 63, Subsection 6 to the bodies acting in the criminal proceedings, court and other state body for the purposes of investigation, detection and prosecution of criminal offences related to terrorism, illegal trading, organized criminal activity, leakage and threatening of the concealed facts and to criminal offences committed by dangerous grouping; the data and information shall be retained only in an electronic form.

(8) The undertaking shall be obliged to administer a yearly statistics on the retained data which shall contain:

- a) A number of cases in which the required data was provided to other state bodies under Section 55, Subsection 6,
- b) The time elapsed between the date on which the data were retained and the date on which an authority acting in a criminal proceedings, court or other state body requested the provision of the data, and
- c) The number of cases where the requests for data could not be met.

(9) Statistics under Subsection 8 shall not contain personal data. The undertaking shall provide statistics under Subsection 8 to the Ministry within January, 31 of the next year. The Ministry shall subsequently submit statistics to the European commission.

(10) Where retaining the data under Subsection 6, the undertaking shall ensure that:

- a) The retained data shall be of the same quality and subject to the same security and protection as the data which the undertaking processes or retains when providing networks or services,
- b) The data shall be subject to the relevant technical and organisational measures to protect the data against accidental or unlawful destruction, accidental loss or alteration, unauthorised or unlawful storage, processing, access or publishing,
- c) The data shall be subject to the relevant technical and organisational measures to ensure that the data can be accessed by the authorised persons only acting under the authority or power of attorney of the undertaking and authorities acting in a criminal proceedings, court or other state bodies and their entrusted or otherwise authorised members or staff,
- d) The data, except those that have been provided and secured, shall be destroyed at the end of the period of retention.

## **Section 59**

### **Telephone Directory**

(1) The undertaking that assigns telephone numbers to subscribers shall be obliged to inform, free of charge, its subscribers about:

- a) The purpose of the telephone directory which shall be the searching of contact data of subscribers on the basis of their name, surname or other name, where applicable, other minimum identifiers, before their personal data will be included in the public telephone directory provided directly in an electronic or printed form or through the telephone directory inquiry service,
- b) Additional usage possibilities of personal data based on the search functions of the electronic versions of the telephone directory.

(2) The subscriber who is a natural person shall have the right to determine whether his personal data are included in a telephone directory, and if so, which personal data are included if they are relevant for the purpose of the printed directory. The relevant data of a physical person for the purpose of the telephone directory shall be the telephone number, name, surname and permanent residence address. The exclusion of the personal data of the subscriber in the telephone directory, verification, correction or their withdrawal shall be free of charge.

(3) The undertaking shall not publish the personal data of the subscriber in its own telephone directory if the subscriber has not given its consent and shall not provide them to other undertakings or other persons issuing telephone directories or providing the telephone directory inquiry service.

(4) The undertaking that assigns telephone numbers to subscribers shall be obliged to provide the undertaking having the obligations under Section 50, Subsection 2, Letter c) and e) with the relevant data about its subscribers in a contracted form updated at least once a year.

(5) Upon a request of other undertakings or other persons that issue a public telephone directory or provide a public telephone directory enquiry service, the undertaking that assigns telephone numbers to subscribers shall be obliged to provide those undertakings with the relevant data about its subscribers in a contracted form on the terms which are fair, objective, cost oriented and non-discriminatory. The relevant data about subscribers shall be the telephone number, name, surname and permanent residence address of a natural person, or business name, place of business of a legal person, or business name and place of business of a natural person – undertaker. Where between the respective undertakings will be no agreement on the provision of relevant data within six months from the delivery of the request one of them, the Office shall decide the subject of the dispute, upon the proposal of one of the parties.

## **Section 60**

### **Presentation and Restriction of Identification**

(1) Where the undertaking offers the service:

- a) Presentation of calling line identification, it shall offer the calling party the possibility, simply and free of charge, the service restriction of calling line identification, and this on a per-call basis or per-line basis,
- b) Presentation of calling line identification, it shall offer the called party the possibility, simply and free of charge, to prevent use of service restriction of presentation of calling

line identification of incoming calls in justified cases which are in particular the workplaces dealing with personal crises situations or helplines,

- c) Presentation of calling line identification, it shall offer the called party the possibility, simply, to reject incoming calls where the calling party has used the service restriction of presentation of calling party identification,
- d) Presentation of called party identification, it shall offer the called party the possibility, simply and free of charge, to prevent the presentation of its identification to the calling party.

(2) Subsection 1, Letter a) shall also apply to calls from the Member States outgoing to third countries, Subsection 1, Letter b), c) and d) shall also apply to incoming calls from third countries.

(3) The undertaking that provides a public network or public service may temporarily override restriction of presentation of the calling party:

- a) On the basis of a subscriber's request, where technically feasible, who requests the tracing of malicious or threatening calls; in such a case the undertaking shall retain and make available, for remuneration, calling line identification to the subscriber concerned.
- b) In case of emergency calls, to the coordination centre of the integrated rescue system or operation centre of emergency call, to process the location data under Section 57, Subsection 2 and 10 in order to answer such calls, and this at the temporary denial or absence of the consent of the subscriber or user concerned.

### **Section 61 Automatic call forwarding**

Where there are services which make it possible to forward calls, the undertaking shall be obliged to ensure that any subscriber has the possibility, simply and free of charge, to override automatic call forwarding initiated by a third party to his terminal.

### **Section 62 Unsolicited Communication**

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

(2) For the purposes of direct marketing, the call or use of automated calling and communications systems without human intervention, facsimile machines, electronic mail, including SMS to the subscriber or user only after their preceding consent, while such consent shall be provable. The consent given may be recalled anytime.

(3) The preceding consent of the recipient of an electronic mail under Subsection 2 shall not be required if it is a case of direct marketing of own similar products and services of the person that has obtained the contact information for the electronic mail delivery in relation to the product or service sale and in accordance with this Act or a special regulation<sup>44</sup>. The recipient of an electronic mail shall be offered a possibility, simply and free of charge and anytime, to reject such use of contact information at the time of their collection and on the

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<sup>44</sup>) Section 4, Subsection 6 of Act No. 22/2004 Coll. as amended by Act No. 160/2005 Coll.

occasion of each message delivered in case he has not initially refused such use. It shall be prohibited to send an electronic mail which does not disclose the sender's identity and address to which the recipient may send a request that such communications cease, and to encourage to a visit of a website in contradiction with a special regulation<sup>42</sup>.

(4) Subsections 2 and 3 shall apply to subscribers who are natural persons.

### **Section 63 Telecommunications Secrecy**

(1) The subject of telecommunications secrecy shall be:

- a) The content of conveyed messages,
- b) The related data of the communicating parties which are the telephone number, business name and the place of business of a legal person, or business name and the place of business of a natural person – undertaker or the personal data of a natural person which are the name, surname, title and permanent residence address; the data published in the telephone directory shall not be subject to telecommunications secrecy.
- c) Traffic data, and
- d) Location data.

(2) Everybody who becomes familiar with the subject of telecommunications secrecy when providing networks and services, using the services, accidentally or otherwise shall be obliged to keep telecommunications secrecy.

(3) Telecommunications secrecy may be disclosed to the Office, the subscriber and user concerned, his authorised representatives or legal successors if hereinafter not provided otherwise.

(4) For the purposes of working in conjunction with other state bodies under Section 55, Subsection 6, the undertaking that provides public services may collect and process the subscribers' data in the scope defined in Section 56, Subsection 3.

(5) On the basis of a written request, the undertaking providing public networks or public services shall be obliged under Section 55, Subsection 6 to permit online, direct and continuous access to the subscribers' data of its own network or services in the scope of data under Subsection 4 and the user allocated identification and Internet protocol address; it shall be obliged, upon a request, to provide such data together with the data on the base stations of the public telephone network and database of International Mobile Subscriber Identity (IMSI) in an electronic form and intelligible manner without delay also on a physical information carrier. The state body to which such access has been enabled shall cover the cost for ensuring the online access up to the interface of the undertaking and the physical information carrier.

(6) The undertaking shall be obliged to provide other state body under Section 55, Subsection 6 for the purposes of fulfilling its tasks under special regulations<sup>42</sup>, on the basis of a written request and with the court's consent or on court's order under special regulations<sup>45</sup> with the data which are subject to telecommunications secrecy under Subsection 1, Letter b) to d); in

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<sup>45</sup> Section 116 of Penal Code.

Act No. 166/2003 Coll. on Protection of Privacy against Unauthorized Use of Information and Technical Means and on amending other Acts (Act on Protection against Listening as amended by later regulations).



case of the data necessary for searching for missing persons and stolen motor vehicles shall be acted under a special regulation<sup>46</sup>. The undertaking shall be obliged to provide those data to other state body under Section 55, Subsection 6, in a written form or encrypted electronic form and in an intelligible manner. The state body to which such data have been provided shall cover the cost for physical carriers.

(7) The undertaking providing public networks or public services shall be also obliged:

- a) To operate public networks or provide public services by means of such technology, including its individual parts and software, which makes it possible to connect and operate the equipment for listening and tapping of traffic in a network owned by the state and the online access under Subsections 5 and 6,
- b) On the basis of other state body under Section 55, Subsection 6, to permit the connection of the equipment for listening and tapping of traffic under the technical specification of such equipment to be connected; the state body which has requested the connection of the equipment for listening and tapping of traffic in the network shall cover the cost for the procurement of the equipment for listening and tapping of traffic in the network, including its software and the provision of maintenance support of such equipment,
- c) To cooperate with the Police corps and authorities acting in a criminal proceedings when disclosing malicious calls and scaremongering,
- d) On the basis of a justified summons, to restrict, without delay, the traffic of a public network or the provision of a public service for the time and in the scope necessary, if it is necessary to protect the constitutional establishment or internal order or state security or state defence and there is an imminent danger to the detriment of life and health; the minister of interior of the Slovak Republic and in case of his absence the minister of defence of the Slovak Republic shall issue the summons. The state body on which request the network traffic was restricted shall be responsible for any detriments incurred by restricting the network traffic,
- e) On the basis of a written request in justified cases related to fulfilling the tasks of state security and defence to provide other state body under Section 55, Subsection 5 with the service presentation of calling line identification, and this even in case that the calling line has restricted presentation of its identification; the state body shall be held responsible for any detriment caused by the misuse of the information provided about personal data since the moment it was provided with the requested data,
- f) To act in subsequent conjunction with the court, the authority acting in a criminal proceedings and other state body under Section 55, Subsection 6 which is necessary to fulfil their tasks and execute their powers under this Act and special regulations.

(8) The undertaking providing public networks or public services which uses coding, compression, encryption or other manner of concealing of signal conveyance, shall be obliged, at its own expense, to provide, in a comprehensible manner, the information collected while listening and tapping traffic in networks to other state body or authority acting in a criminal proceedings. On the basis of a proposal of the National Security Office, the Slovak Intelligence Service, the Military Intelligence or Police corps, the Office shall issue a list of equipment using coding, compression, encryption or similar equipment which shall be prohibited to connect to the network.

(9) The undertaking's staff shall be obliged to keep secrecy about provisioning information and data or other conjunction under this Act. Only the state body to which information and

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<sup>46</sup> Section 76, Subsection 4 and 5 of Act of National Council of Slovak Republic No. 171/1993 Coll. , as amended by later regulations.

data or other conjunction were provided may lift the obligation to keep secrecy. This is without prejudice to the provisions of a special regulation<sup>16</sup>.

## **PART FIVE PROTECTION OF NETWORKS AND EQUIPMENT**

### **Security and Integrity of Public Networks and Services**

#### **Section 64**

(1) The undertaking that provides public networks or public services shall be obliged to take appropriate technical and organisational measures to protect security of its networks and services which with regard to the technology state shall ensure such a level of security that is adequate to the risk posed. Measures shall be taken in particular to prevent and minimise impact of security incidents on users and interconnected networks.

(2) The undertaking that provides public networks shall be obliged to maintain integrity of its networks in order to ensure the continuity of provisioning services over those networks.

(3) The undertaking that provides public networks or services shall be obliged, without delay, to inform the Office about a breach of security or integrity that has had a significant impact on the operation of networks or services.

(4) If it is in the public interest, the Office shall publish information under Subsection 3 or, on the basis of a request of the Office, the undertaking shall publish such information.

(5) In case of a particular risk of a breach of the network security, the provider of public services shall be obliged to inform subscribers concerned about such a risk and any possible remedies, including likely costs necessary to avert the threat.

(6) The undertaking that provides public networks or services shall be obliged:

- a) Upon the request of the Office, to provide the relevant information necessary to assess security and integrity of its services and networks, including the documented security policies,
- b) To enable a security audit carried out by a qualified independent person selected by the Office or the Office itself, while the cost of the audit shall be covered by the undertaking.
- c) To provide the results of the audit to the Office and, upon the request, the Office for protection of personal data,
- d) To cooperate with the Office in investigation of cases of non-compliance with regulations and their impact on network security and integrity and, upon the request, to provide the Office with relating relevant information.

(7) The details on maintaining the network integrity and parameters thereof and the notification obligation of the undertaking under Subsections 3 to 5 and 6, Letter a) shall be regulated by a generally binding legal regulation issued by the Office.

(8) The undertaking providing public networks and associated facilities shall be obliged to ensure that its network and associated facilities comply with technical standards and technical specifications for networks or services under Section 14, Subsection 2, Letter q) in terms of:

- a) Network traffic security,
- b) Network integrity maintaining,
- c) Service interoperability,
- d) Terminal equipment connection.

(9) Where appropriate, the Office shall provide information under Subsection 3 to regulatory authorities in the Member States and agency ENISA<sup>47</sup>. The Office shall annually submit the European Commission and ENISA a summary report on the notifications under Subsection 3 and any related measures taken.

## **Section 65**

### **Protection from Interference**

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

(2) Only such electrical or electronic equipment shall be operated of which level of interference incurred during the operation does not exceed the level that disables working of other equipment in line with its specification, and which is constructed so as to have adequate own resistance against electromagnetic interference which makes it possible to be operated in line with its specification.

(3) Where a harmful interference or any interference which restricts equipment operation in line with its intended use occurs, the undertaking or user of the equipment incurring interference shall be obliged to take effective protective measures without delay or terminate equipment operation. If it is not feasible or it is more economical or effective to take preventing measures on the equipment that is subject to interference, the undertaking shall take those measures. The costs of elimination of interference shall be covered by the undertaking or user of which the equipment incurs interference.

(4) Interference shall be also the disablement of the operation incurred by the electromagnetic shielding or the reflections of electromagnetic waves from the structures built after putting the network or equipment into operation.

(5) Harmful interference shall not be the use of a technical means which may be used by an authorised state body<sup>48</sup> for the time and scope necessary, if life or health of persons are in imminent danger, to secure the protected objects and protected areas in which the concealed facts<sup>16</sup> are considered, against listening, to secure the protection of the protected persons or to eliminate radiation of radio waves; such use however shall not endanger the functioning of the radio-navigation service or other rescue services. The authorised state body shall be responsible for any possible detriments incurred to the undertaking by restricting the network traffic.

(6) The undertaking shall not be held responsible for any detriment which may be incurred to other subject, including users, by restricting the network operation due to the use of a technical means under Subsection 5.

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<sup>47)</sup> Regulation of European Parliament and Council (EC) No. 460/2004 from 10 March 2004 Establishing European Network and Information Security Agency (special edition of O. J. of EU, Chapter 1/Vol. 5, O. J. of EU L 77, 13. 3. 2004) as amended.

<sup>48)</sup> Act of National Council of Slovak Republic No. 46/1993 Coll., as amended by later regulations. Act of National Council of Slovak Republic No. 171/1993 Coll., as amended by later regulations. Act of National Council of Slovak Republic No. 198/1994 Coll., as amended by later regulations. Act No. 215/2004 Coll..

## **Section 66**

### **Rights and Obligations to Third Party Real Estates**

(1) The undertaking may to the extent necessary and if it is in the public interest:

- a) To install and operate public networks and build the lines in the third party's real estates,
- b) In relation to installation, operation, repairs, and maintenance of lines, to access the third party's real estates;
- c) To perform necessary adjustments of the land and its coppice, especially to remove and lop trees and other coppices endangering the safety and reliability of lines if the owner or user of the real estate, after a preceding summons, has not done so.

(2) The obligations corresponding to the authorisations under Subsection 1, Letter a) are real burdens<sup>49)</sup> related to real estates concerned. The undertaking shall submit a proposal to make a record in the Cadastre of real estates<sup>50)</sup>.

(3) When executing the rights pursuant to Subsection 1, the undertaking that provides a public network shall be obliged to act in such a manner that it does not inflict damage on real estates or coppices, and if such damage cannot be avoided, to restrict it to the minimum extent possible. The undertaking shall be obliged to notify the owner or user of the real estate at least 15 days in advance about the commencement of the right execution. The undertaking may enter the third party's real estate even without the prior notification due to a breakdown, the right execution under the contract of the provision of public services or a fault on the communications lines; in such a case the undertaking shall notify the owner or user without delay.

(4) After completing the necessary works, the undertaking shall be obliged to re-establish the previous state of the real estate, and if this is not possible with regard to the nature of the work done, the state corresponding to the preceding 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 or if it inflicted a damage on the coppices, the undertaking shall be obliged to pay off a one-off adequate compensation corresponding to the extent of limitation on the use of the real estate. The owner of the real estate shall be obliged to assert its claim to a one-off compensation in the respective year within one year from the date when the inflicted restriction started, otherwise this right shall expire. Should the undertaking and the owner of the real estate fail to agree on the amount of adequate compensation, each of them may submit the court a proposal for the decision within six month from the date of asserting the claim at the respective undertaking.

(5) If, as a result of exercising rights of an undertaking pursuant to Subsection 1, the owner or user of the real estate is restricted from the usual use of the real estate, it shall have the right for a one-off adequate compensation for the forced restriction on the use of the real estate. The owner of the real estate shall be obliged to assert its claim to a one-off compensation in the respective year within one year from the date when the inflicted restriction started, otherwise this right shall expire. Should the undertaking and the owner of the real estate fail to agree on the amount of adequate compensation, each of them shall have the right to submit

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<sup>49)</sup> Section 151n to 151p of Civil Code.

Section 139, Subsection 1 of Act No. 50/1976 Coll., as amended by later regulations.

<sup>50)</sup> Section 35 of Act of National Council of Slovak Republic No. 162/1995 Coll. on the Cadastre of Real Estates and Entry of Ownership and Other Rights to Real Estates (Act on Cadastre), as amended by later regulations.

the court a proposal for the decision within six month from the date of asserting the claim at the respective undertaking.

(6) The document necessary for the territorial proceedings and construction proceedings<sup>51</sup> means a statement of undertakings concerned related to the existence of underground or aerial lines, radio routes in the location of the construction and the possibility of interference of radio transmission.

(7) The construction project shall contain the route of all lines in the location of the construction. The project planner shall be responsible for the fulfilment of this obligation.

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

(9) The issuance of territorial decrees for the placement of lines or construction authorisations for lines by the public administration authorities shall not be in the conflict of interests in case that those authorities also execute the activities related to the ownership or operation of public networks or public services or are owners of the real estates concerned.

(10) Line relocation means a relocation of some of the line's elements or change of its route. Line relocation also means the construction of a new line which will replace the original line functionally. The line relocation that has not been initiated by the owner or line operator concerned shall be made only in accordance with the agreement and on terms agreed with the undertaking. The cost of such a line relocation shall be covered by the person which initiated the need for the relocation, if not agreed otherwise.

## **Section 67** **Co-location and Sharing of Facilities**

(1) The undertaking that has the rights under Section 66, Subsection 1, Letter a) may use the third party's inner line distributors of constructions and premises in which the undertaking is interested in the provision of public services. The undertaking shall be obliged to cover, adequately and on the basis of the ratio of use, the real cost to maintain and repair such distributors. The owner may claim compensation of the costs spent by the owner of the distributors on maintenance and repairs of inner line distributors from the undertaking within six months from the date when they were spent, otherwise the right shall expire.

(2) If the undertaking is unable to place a new line or install telecommunications equipment or it can do so only with an unreasonable restriction on the use of the third party's real estates it may request other undertaking providing networks or services to enable the undertaking, under the non-discriminatory terms, to use the existing infrastructure including the constructions, premises and parts of lines, unless this requires significant additional works and the cost related to it.

(3) The terms of use of the infrastructure, including constructions, premises, and parts of lines pursuant to Subsection 2, shall be agreed in the contract concluded between the undertakings. It shall only be allowed to refuse to conclude such a contract in case of technical infeasibility or for the significant security reasons related to the public interest.

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<sup>51</sup>) Section 35, Subsection 1 and Section 60 of Act No. 50/1976 Coll., as amended by later regulations.

(4) On its own initiative or proposal of one of the undertaking failed to agree on the contract under Subsection 3, the Office may, after the consultations, with regard to the public interest which is the protection of environment, public health, public order or for reasons of territorial planning, to decide on the sharing of infrastructure, including constructions, premises and parts of lines. In that decision, the Office shall also determine cost allocation rules. The Office shall be the authority concerned in the territorial or construction proceedings where the sharing of facilities is applied to in the process of such proceedings.

(5) Upon a request of the Office, the undertaking shall be obliged to provide the up-to-date information on character, availability and geographic location of equipment under Section 66, Subsection 1, Letter a), including constructions, premises and parts of lines for the purposes of a detailed overview of the existing infrastructure. The Office shall make available such information to the persons concerned.

(6) On the basis of consultations, the Office may impose on the undertaking that has the rights under Section 66, Subsection 1 or the owner of inner distributors of networks of constructions and premises in which the undertaking provides public services or, in which the undertaking is interested in the provision of public services, to share the inner distributors within the construction or up to the first concentrator or distributor, if that is located outside the construction, where it is reasoned by the fact that a duplication of such infrastructure would be uneconomical or physically infeasible.

## **Section 68**

(1) Everyone shall be obliged to act in such a manner as to avoid damaging of lines and not interfere with the operation of networks of services and avoid the unauthorised interference into the network and service provisioning, otherwise he shall be held responsible for any damage incurred to the undertaking.

(2) The owner or user of the real estate shall be obliged to take care, when using the real estate, not to damage the networks and facilities and not interfere with the operation of the lines, especially the aerial and underground cable lines.

(3) The undertaking shall be obliged to maintain the coppices in the protection zone so they do not threaten the line safety and reliability.

(4) The protective zone shall be established in order to protect the lines. The protective zone shall originate from the date of adoption a decision on the location of the construction or the date of delivery a notification of a small construction<sup>52</sup>.

(5) The protective zone of a line shall be 1.5 m wide from the axis of its route, on both sides, and shall take the entire length of its route. The depth and height of the protective zone shall be 2 m from the ground surface in case of an underground line and within radius of 2 m in case of an aerial line.

(6) In the protection zone, it shall be prohibited to:

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<sup>52</sup>) Section 32, Letter a) and c) and Section 55, Subsection 2 of Act No. 50/1976 Coll., as amended by later regulations.

- a) Locate structures, facilities and coppices, conduct ground works which might endanger the lines or safety of the network operation,
- b) Conduct the operational activities which use such machines and equipment which interfere with the operation of networks, associated facilities and services.

## **PART SIX**

### **PROVISION OF GRANTS IN ELECTRONIC COMMUNICATIONS SECTOR**

#### **Section 69**

- (1) On the basis of a written request of a natural person – undertaker or a legal person, the Ministry may provide a grant in support of the research and development in the electronic communications sector, without prejudice to the rules of the provision of state aid under a special regulation<sup>53</sup>.
- (2) The grant under Subsection 1 may also be provided in order to co-finance projects solved within international agreements on the scientific-technical cooperation and projects within international programmes and initiatives in the field of research and development of electronic communications, including the cost for preparation thereof.

#### **Section 70**

- (1) For the purposes under Section 69, Subsection 1, the grant may be provided to:
  - a) Natural person – undertaker with a place of business on the territory of the Slovak Republic,
  - b) Legal person authorised to undertake on the territory of the Slovak Republic,
  - c) The interest association of legal persons,
  - d) Foundation,
  - e) Citizen association,
  - f) Non-profit organization providing generally beneficial services,
  - g) University.
- (2) The grant may be provided to the applicant pursuant to Subsection 1 on the basis of a written request, which template is given in Annex 3, provided that:
  - a) The project submitted meets the requirements set in the call for submitting projects,
  - b) Has an opened account in a bank or subsidiary of a foreign bank, and
  - c) Has fulfilled conditions under a special regulation<sup>54</sup>.
- (3) The annex of the request shall contain:
  - a) A project proposal structured under the template given in Annex 4,
  - b) Project budget proposal,
  - c) Extract from the register of companies, trade register or a similar register, in which a legal person or natural person – undertaker is registered, not later than three weeks' time; if the applicant has not been registered in a public register from which the extract is produced, he shall submit a document that has established or constituted him,
  - d) A document on opening the applicant's account in a bank or subsidiary of a foreign bank,
  - e) Documents under a special regulation<sup>55</sup>.

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<sup>53</sup>) Article 107 to 109 of Treaty on the European Union Functioning (O. J. of EU C115, 9.5.2008).

<sup>54</sup>) Section 8a, Subsection 4 of Act No. 523/2004 Coll. on Budgetary Rules of Public Administration and on Amendment of Other Acts, as amended by Act No. 383/2008 Coll.

(4) The applicants shall submit requests for grants under Subsection 1 to the Ministry within one month of publishing a call to submit projects. The ministry shall publish the call on its website. The call shall contain in particular:

- a) Main purpose and the criteria under which the applications will be evaluated, and weight thereof,
- b) Application template in an electronic form,
- c) Disposable amount of resources for the particular call,
- d) Commission composition,
- e) Draft contract of provisioning the grant.

### **Section 71**

(1) The grant may be provided up to 100% of economically justified costs for the project solving under Section 69, Subsection 1, except for the cases given in Section 69, Subsection 2.

(2) The grant shall not be provided, except for the purpose under a special regulation<sup>56</sup>, to:

- a) Cover the obligations related to previous years,
- b) Repay the credits and interests for the provided credits,
- c) Reimburse the expenses paid in the previous years.

(3) The requests for the grants shall be evaluated by a commission set up by the Ministry, counting at least three members. The commission shall evaluate the requests for the grants within one months after the period under Section 70, Subsection 4 is over.

(4) The provision of the grant under Section 69 shall not be claimed legally.

### **Section 72**

(1) The Ministry shall conclude a contract of provisioning the grant with the recipient of the grant.

(2) The contract of provisioning the grant shall contain:

- a) Data on the contractual parties involving the name or business name, headquarters or place of business, statutory organ, identification number, tax identification number for legal persons,
- b) Name of a bank or subsidiary of a foreign bank and account number of the grant's recipient,
- c) Purpose, type, amount and period of use of the grant,
- d) Terms of using the grant,
- e) Manner and period of fulfilling the obligations of the contractual parties,
- f) Specification of rights concerning the project results,
- g) Specification of relations of rights to the movable assets and real estates procured from the provided grant,
- h) Manner of use of the project results,

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<sup>55</sup>) Section 8a, Subsection 5 of Act No. 523/2004 Coll., as amended by Act No. 383/2008 Coll.

<sup>56</sup>) Section 8a, Subsection 8 of Act No. 523/2004 Coll., as amended by Act No. 383/2008 Coll.



- i) Sanctions for infringing the contractual terms,
  - j) Date and manner of closing the account of the grant,
  - k) Date for returning the unused financial means and the account number on which the unused means shall be returned,
  - l) Dates of the running supervision of using the grant,
  - m) Name and surname of the professional project guarantor,
- (3) The Ministry shall publish on its website:
- a) All approved requests on the provision of the grant, and also the amounts of the requested and provided grants, including the date of approval of their provision, amount and purpose of the grant and identification of the grant's end recipient, and this within 30 days from adopting the request.
  - b) All disapproved requests, including the date and reason for disapproving the request, and this within 30 days from disapproving the request.
  - c) Evaluation of the results of the grants already provided if they are available to the Ministry.

**PART SEVEN**  
**SANCTIONS**  
**Section 73**

(1) The Office shall impose on the undertaking that has not fulfilled or violated any of the obligations defined by this Act under:

- a) Section 19, Subsection 2 and 3, Section 24, Subsection 2 or Section 49, Subsection 4 a penalty up to €3,000,000,
- b) Section 12, Subsection 5, Section 15, Subsection 1 and 4, Section 27, Subsection 1, 2, 4 and 5, Section 32, Subsection 13 and 14, Section 36, Subsection 1 and 2, Section 47, Subsection 1 and 2, Section 50, Subsection 10, Section 51, Subsection 2, Section 55, Subsection 3, Section 58, Subsection 10, Section 64, Subsection 1 and 2 or has not fulfilled or violated the terms of the general authorisations under Section 14 a penalty up to €1,500,000,
- c) Section 21, Subsection 2, Section 28, Subsection 1, Section 38, Subsection 5, Letter a) and c), Section 40, Subsection 1 to 3, Section 41, Section 42, Subsection 4, Section 43, Subsection 2, Section 44, Subsection 4 and 5, Section 48, Subsection 1, 4 and 5, Section 50, Subsection 9, Section 52, Subsection 1, Section 54, Subsection 3 and 6, Section 56, Subsection 5, Section 57, Subsection 10 to 12, Section 58, Subsection 5 and 7, Section 59, Subsection 1 and 3, Section 63, Subsection 5 to 7 and 9, Section 64, Subsection 3, 5, 6 and 8 or provisions of a special regulation,<sup>57)</sup> a penalty up to €300,000,
- d) Section 9, Subsection 2, Section 29, Subsection 4, Section 40, Subsection 6, Section 48, Subsection 6, Section 56, Subsection 4 and 8, Section 57, Subsection 2 and 4, Section 59, Subsection 4, Section 60, Subsection 1, Section 61, Section 66, Subsection 3 sentence 2, Section 67, Subsection 5 or provisions of a special regulation,<sup>58)</sup> a penalty up to €150,000,

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<sup>57)</sup> Article 3 to 4c and 6a Point 4 of Regulation of European Parliament and Council (EC) No. 717/2007 from 27 June 2007 on Roaming in Public Mobile Communications Networks within European Communities and on Amendment of Directive 2002/21/ES (Journal EU L 171, 29. 6. 2007), as amended.

<sup>58)</sup> Article 6 and 6a Point 1 to 3 of Regulation EC No. 717/2007, as amended.

e) Section 26, Subsection 1, Section 31 Subsection 11, Section 45, Subsection 1 to 3, Section 47 Subsection 3, Section 57, Subsection 7 and 8 or Section 58, Subsection 8 and 9 a penalty up to €50,000.

(2) The Office shall impose on the person who has not fulfilled or violated any of the obligations defined in the decision of the Office issued under:

a) Subsection 8, Section 10, Subsection 8, Section 12, Subsection 1, Section 18, Subsection 1, Section 27, Subsection 6, Section 39, Subsection 2, Section 50, Subsection 3 and 8, Section 51, Subsection 1, Section 52, Subsection 2 and 5 a penalty up to €1,500,000,

b) Section 26, Subsection 2, Section 31, Subsection 4, Section 32, Subsection 9, Section 39, Subsection 1, Section 59, Subsection 5, Section 67, Subsection 4 and 6 or Section 76 a penalty up to €300,000.

(3) The Office shall impose on the person who has not fulfilled or violated any of the obligations defined by this Act under:

a) Section 13, Subsection 1, Section 15, Subsection 1 and 4, Section 36, Subsection 1, Section 32, Subsection 1, Section 38, Subsection 5, Letter a) and c), Section 40, Subsection 1, Section 62, Subsection 2 and 3, Section 63, Subsection 2, Section 65, Subsection 3 or Section 68, Subsection 1 a penalty up to €300,000 in case of a legal person or natural person - undertaker,

b) Section 32, Subsection 1, Section 37, Subsection 1, Section 65, Subsection 3 or Section 68, Subsection 1 a penalty up to €1,000 in case of a natural person.

(4) Where the holder of an individual authorisation for the use of numbers or individual authorisation has not settled the one-off or repeated payment, the Office shall proceed under Section 31, Subsection 9, Letter a) Point 3 or under Section 34, Subsection 3, Letter d) and shall not impose the penalty.

(5) When imposing a penalty, the Office in particular shall take account of the severity, manner, duration and impacts of failing to fulfil the obligation.

(6) The penalty may be imposed repeatedly for the repeated obligation violation.

(7) The penalty may be imposed within the two years from the date of detection the obligation violation, however, at the latest within the four years since the date of violating the obligation. The penalty yield shall be an income of the state budget.

(8) Where there is a severe or repeated violation of the obligations or terms defined under this Act, the general authorisation, the Office's decision or a generally binding legal regulation issued on the basis of this Act and if the deficiency has not been dealt with in spite of imposing the penalty under Subsections 1 or 2 or taking the measure under Section 39, Subsection 1, the Office may prohibit the undertaking to provide network or services, and this up to 24 months with regard to the severity and duration of such violation.

## **PART EIGHT COMMON, TRANSITIONAL AND FINAL PROVISIONS**

## **Section 74 Proceedings**

(1) The proceedings under this Act shall be regulated by the general regulation on the administrative proceedings<sup>59</sup>, unless stipulated otherwise by this Act.

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

- a) Taking an appropriate temporary measure (Section 10, Subsection 8),
- b) Definition of the cost calculation methodology (Section 12, Subsection 5),
- c) Issuance of the general authorisation (Section 14),
- d) Definition and analysis of relevant markets (Section 16 a 17),
- e) Selection procedure on the allocation of frequencies (Section 33),
- f) Issuance of a certificate on the special professional capability (Section 37),
- g) Taking protective measures (Section 39),
- h) Price regulation for number portability (Section 48, Subsection 3),
- i) Out-of-court dispute resolution (Section 75).

(3) The decision of the Office pursuant to Subsection 1 may be appealed. The appeal against the Office's decision under Section 12, Section 18 to 25 shall not have suspensive effect. The chairman of the Office shall decide on the appeal on the basis of a proposal from the special commission established by him.

(4) The Supreme Court of the Slovak Republic shall be substantially justified to examine the Office's decisions and procedures<sup>60</sup>.

## **Section 75 Out-of-court Dispute Resolution**

(1) The subscriber may submit the Office a dispute with the undertaking that provides networks or services, in terms of this Act, and this only after the claim procedure, if he does not agree with the result of the claim procedure or manner of its settling.

(2) The proposal for the initiation of an out-of-court dispute resolution shall contain:

- a) Name, surname and the electronic or postal address of the subscriber,
- b) Name and place of business of the undertaking,
- c) Subject of the dispute,
- d) Reasoning for not being satisfied with the result of making the claim,
- e) A proposal for the dispute resolution.

(3) The subscriber shall submit a proposal for the initiation of an out-of-court dispute resolution without delay, not later than 45 days from the date of the delivery of the claim settling.

(4) Both the subscriber and the undertaking may supply evidence and supplement thereof, submit the basis necessary for the factual dispute consideration. The Office shall resolve the submitted dispute impartially, aimed at its settling. The period for the resolution of the out-of-court dispute settling shall be 60 days from the date of the delivery of the complete proposal, in complex cases 90 days from the delivery of the complete proposal.

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<sup>59)</sup> Act No. 71/1967 Coll., as amended by later regulations.

<sup>60)</sup> Section 246, Subsection 2 of Civil Judicial Code.

(5) The conclusion of a written agreement shall be the result of the successful dispute resolution, which shall be binding for both parties of the dispute.

### **Section 76** **Resolution of Cross-border Disputes**

(1) With regard to the disputes between an undertaking and the parties from different Member States of the European Union related to the field of regulation under this Act and which are in the competence of the authorities of at least two Member States of the European Union, the undertaking may request the Office for the resolution of the dispute.

(2) When resolving the dispute, the Office shall cooperate with the regulatory bodies of the Member States of the European Union and shall have the right to request BEREC to adopt the option to the dispute resolution. Where such a request has been made to BEREC, the Office shall abstain from acting in the dispute resolution until the issuance of the BEREC's opinion; this is without prejudice to the Office's right to issue a temporary measure where necessary.

(3) When resolving the dispute, the Office may impose any obligations under this Act on the undertaking. The obligations, imposed by the Office on the undertaking within the dispute resolution, shall take the utmost account of the opinion adopted by BEREC.

### **Section 77** **Dispute Resolution between the Undertakings**

The Office shall settle the dispute between the undertakings or the persons which benefit from the access or interconnection at the request of either party of the dispute arising under fulfilling the obligations under this Act, a decision or a generally binding legal regulation issued by the Office. The Office shall decide the dispute within four months, at the latest, since submitting the request.

### **Section 78** **Transitional Provisions**

(1) The proceedings initiated before 31 October 2011 shall be completed pursuant to the existing regulations. The Office shall terminate the proceedings initiated under the existing regulations which with regard to the provisions of this Act have not to be completed.

(2) The holder of the individual authorisation under Section 32, which was given to him before this Act took effect and which validity is at least five years after this Act will take effect, may, until 25 May 2016, request the Office to consider the compliance of the individual authorisation with Section 30, Subsection 5 and 6. Before adopting a decision, the Office shall notify the holder of the individual authorisation the result of the consideration and the draft decision and provide a period of 30 days to take its request back.

(3) The Office shall adjust all valid authorisations in accordance with Section 30, Subsection 5 and 6 by 31 October 2016 at the latest.

- (4) The Office shall bring into conformity with this Act all valid general authorisations and the individual authorisations for the use of numbers and individual authorisations for the use of frequencies issued under the previous regulations by 19 December 2011 at the latest.
- (5) The individual authorisation for the operation of the radio equipment under previous regulations shall be the individual authorisations on the determination of the terms under which the frequencies may be used under this Act.
- (6) The protective zones established before this Act took effect, including arising rights and obligations, shall remain untouched.
- (7) The authorisations to third party's real estates, including the restriction of use thereof, which had arisen before this Act took effect, shall remain untouched. The claim for the compensation which had arisen to the real estate's owner, for reasons of the execution of such authorisations, may be asserted at the undertaking within the period defined by the previous regulations, by one year at the latest from the date of adopting this Act, otherwise the claim shall expire.
- (8) The provision Section 59, Subsection 1 and 2 shall not apply to the telephone directories issued before this Act took effect.
- (9) The contracts of connection under the previous regulations shall be contracts on the provision of public services under this Act.
- (10) The proceedings on giving the consent for transfer of rights arising from the allocation of frequencies initiated before 31 October 2011 shall be completed under the previous regulations.
- (11) The universal service provider that was designated to provide universal service until 31 October 2011 shall be the universal service provider designated under this Act and shall be obliged to fulfil the imposed obligations of universal service until the adoption of the Office's decision under Section 50, Subsection 3. The Office shall issue a decision under Section 50, Subsection 3 within nine months from the adoption of this Act.
- (12) The Office shall issue the individual authorisation for the use of frequencies for television analogue terrestrial broadcasting with validity until 31 December 2012 at the latest if the applicant for the authorisation has a licence for television analogue terrestrial broadcasting or concluded a contract of the transmission of television broadcasting with the holder of such a licence.
- (13) The provision of Section 35, Subsection 2 shall not apply to the frequencies for digital terrestrial television broadcasting allocated until 31 December 2012.
- (14) The provision of Section 35, Subsection 1 and 2 shall not apply to the frequencies for radio analogue or television analogue terrestrial broadcasting allocated before this Act took effect on the basis of the licence for analogue terrestrial broadcasting, and this for the whole period of the validity of such a licence. The provision of Section 35, Subsection 1 and 2 shall apply to the frequencies for radio or television analogue terrestrial broadcasting allocated on the basis of the licence which validity was extended after this Act took effect, and this from the date of its extension pursuant to a special regulation<sup>61</sup>.

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<sup>61</sup>) Section 52 of Act No. 308/2000 Coll., as amended by later regulations.

(15) The provision of Section 35, Subsection 1 and 2 shall not apply to the frequencies which are in the national table of the frequency spectrum allocated for civil purposes, used by the Ministry of the Interior, Ministry of Defence, Slovak Intelligence Service, Corps of Prison and Justice Guard, and Customs Directorate of the Slovak Republic until 31 December 2021.

(16) For the founders and operators of the special networks, the Office shall issue, until 31 December 2011, the individual authorisations for the use of frequencies under the previous regulations for frequencies which are really used and which are not defined in the national table of the frequency spectrum for the purposes of state defence and security and protection of public order and no individual authorisation for their use had been issued before this Act took effect.

(17) The provisions of Section 35, Subsection 1 and 2 shall not apply to the frequencies allocated for the experimental use in terms of the digital radio broadcasting or respective supplementary contents services related to the digital radio broadcasting.

(18) The proceedings on providing the grants which started until 31 October 2011 shall be completed under the previous regulations.

### **Section 79**

This Act transposes the legally binding acts of the European Union listed in Annex No. 5.

### **Section 80 Cancelling Provisions**

The following shall be cancelled:

1. Act No. 610/2003 Coll. on Electronic Communications, as amended by Act No. 716/2004 Coll., Act No. 69/2005 Coll., Act No. 117/2006 Coll., Act No. 220/2007 Coll., Act No. 654/2007 Coll., Act No. 435/2008 Coll., Act No. 56/2010 Coll., Act No. 447/2010 Coll. and Act No. 122/2011 Coll.,
2. Decree of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic No. 501/2004 Coll. on Establishment and Administration of the Special Universal Service Account and the Related Details,
3. Ruling of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic of 13 June 2005 No. 1300 M-2005 on Provision of Grants for Research and Grants and Development in the Sector of Electronic Communications and Postal Services, as amended by the Ruling of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic of 3 October 2007 No. 2560/M-2007,
4. Ruling of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic of 23 April 2010 No. 07480/2010-SPT/z.1700M on Providing Grants in Support of Transition to Digital Television Broadcasting in Slovak Republic,
5. Measure of the Telecommunications Office of the Slovak Republic of 14 April 2004 No. O-1/2004 which defines the details about the certificates on the special technical capability to operate the selected radio equipment, establish the Examination commission and the contents, scope and course of the examination as amended by the measure of the Telecommunications Office of the Slovak Republic of 18 July 2007 No. O-16/2007,

6. Measure of the Telecommunications Office of the Slovak Republic of 19 April 2004 No. O-2/2004 which defines the tariff of fees for the right to use frequencies as amended by the measure of the Telecommunications Office of the Slovak Republic O-13/2006,
7. Measure of the Telecommunications Office of the Slovak Republic of 19 April 2004 No. O-3/2004 which defines the tariff of fees for the use of numbers as amended by the measure of the Telecommunications Office of the Slovak Republic O-12/2006,
8. Measure of the Telecommunications Office of the Slovak Republic of 22 April 2004 No. O-5/2004 which defines the details on quality indices and target values, including the details about the form, scope, content and manner of publishing information,
9. Measure of the Telecommunications Office of the Slovak Republic of 14 June 2004 No. O-6/2004 which defines the details on conditions of the conditional access to digital television and digital radio,
10. Measure of the Telecommunications Office of the Slovak Republic of 5 September 2006 No. O-10/2006 on the Scope of the Minimum Set of Leased Lines,
11. Measure of the Telecommunications Office of the Slovak Republic of 26 October 2006 č. O-11/2006 on Terms and Procedures of the Transfer of Rights Arising of the Allocation of Frequencies,
12. Measure of the Telecommunications Office of the Slovak Republic of 1 February 2007 No. O-14/2007 on the Numbering Plan,
13. Measure of the Telecommunications Office of the Slovak Republic of 18 April 2008 No. O-17/2008 which defines the details of the terms of transition from analogue manner of broadcasting the signal of the television terrestrial broadcasting to digital manner of broadcasting the signal of the television terrestrial broadcasting (the terms of transition),
14. Measure of the Telecommunications Office of the Slovak Republic of 26 May 2009, No. O-19/2009 which defines the details on ensuring the telephone number portability.

### **Section 81** **Entry into Force**

This Act shall enter into force on 1 November 2011 except for provisions of Section 42 and 44 which shall enter into force on 1 January 2012.

President of the Slovak Republic

Chairman of the National Council of the Slovak Republic

Chairwoman of the National Council of the Slovak Republic

**MINIMUM LIST OF ITEMS OF A REFERENCE OFFER FOR WHOLESALE NETWORK  
INFRASTRUCTURE ACCESS, INCLUDING SHARED OR FULLY UNBUNDLED  
ACCESS TO THE LOCAL LOOP AT A FIXED LOCATION TO BE PUBLISHED BY  
THE UNDERTAKING WITH SIGNIFICANT MARKET POWER**

**A. Conditions for unbundled access to the local loop**

1. Network elements to which access is offered shall include in particular the following elements together with associated facilities:
  - (a) Unbundled access to the local loop (full and shared),
  - (b) Unbundled access to the local sub-loop (full and shared), including, when relevant, access to network elements which are not active for the purpose of interconnection into a higher network level;
  - c) Where relevant, duct access enabling the development of access networks.
2. Information about the locations of physical access<sup>1</sup>, including cabinets and distribution frames, availability of the local loop, sub-loop and interconnection into a higher network level in specific parts of the access network, and when relevant, information about the locations of ducts and the availability within ducts.
3. Technical conditions related to access and use of local loops and sub-loops, including the technical characteristics of the twisted pair of the local loop, optical fibre or equivalent, cable distributors and associated facilities and, when relevant, also technical conditions related to access to ducts.
4. Ordering and provisioning procedures, usage restrictions.

**B. Co-location services**

1. Information on the SMP undertaking's relevant sites<sup>1</sup> or equipment locations and planned update thereof.
2. Co-location options at the sites defined under point 1 (including physical co-location and, as appropriate, distant co-location and virtual co-location).
3. Restrictions, if any, related to equipment to be co-located.
4. Measures put in place by the SMP undertaker to ensure security of its locations.
5. Access conditions for staff of competitive undertakings.
6. Safety standards.
7. Rules for the allocation of space where co-location space is limited.
8. Conditions for undertakings to inspect the locations at which physical co-location is possible, or sites where co-location has been refused on grounds of lack of capacity.

**C. Information systems**

Conditions for access to SMP undertaking's operational support systems or databases for pre-ordering, provisioning, ordering, maintenance and repair requests and billing.

**D. Supply conditions**



1. Period for settling the requests for supply of services and facilities; service level agreements, fault resolution, procedures to return to the normal level of service and quality of service parameters.
2. Standard contract conditions and, where appropriate, compensation for failure to meet the periods.
3. Prices or pricing formulae for each item, function and facility listed above.

<sup>1)</sup> Availability of this information may be restricted to parties concerned only in case of public security interests.

## CATEGORIES OF DATA TO BE RETAINED

A. Data necessary to trace and identify the source of a communication:

1. Concerning fixed network telephony and mobile telephony

- a) The calling telephone number,
- b) The name, surname and permanent residence address, or business name or place of business of the subscriber or registered user,

2. Concerning Internet access, Internet e-mail and Internet telephony

- a) The user's identification,
- b) The user's identification and telephone number allocated to any communication entering the public telephone network,
- c) The name, surname and permanent residence address, or business name and site or place of business of the subscriber or registered user and the Internet Protocol (IP) address which was to the subscriber or user allocated at the time of the communication, user identification or telephone number.

B. Data necessary to identify the recipient of a communication:

1. Concerning fixed network telephony and mobile telephony

- a) The number(s) dialled (the telephone number(s) called) and, in cases involving supplementary services such as call forwarding or call transfer, the number or numbers to which the call is routed,
- b) The name, surname and permanent residence address, or business name and site or place of business of the subscriber or registered user,

2. Concerning Internet e-mail and Internet telephony

- a) The user's identification or telephone number of the specified recipients of a telephony call,
- b) The name, surname and permanent residence address, or business name and site or place of business of the subscriber or registered user who is the specified recipient of a communication.

C. Data necessary to identify the date, time and duration of a communication:

1. Concerning fixed network telephony and mobile telephony: the date and time of the start and end of a communication,

2. Concerning Internet access, Internet e-mail and Internet telephony:

- a) The date and time of the log-in and log-off of the Internet access service, in a certain time zone, together with the dynamic or static IP address, allocated by the Internet access service provider to a communication, and the user's identification of the subscriber or registered user,
- b) The date and time of the log-in and log-off of the Internet e-mail or Internet telephony in a certain time zone.

D. Data necessary to identify the type of communication:

1. Concerning fixed network telephony and mobile telephony: the telephone service used,

2. Concerning Internet e-mail and Internet telephony: the Internet service used.

E. Data necessary to identify the users' terminal equipment or what purports to be their equipment:

1. Concerning fixed network telephony: the calling and called number,

2. Concerning mobile telephony:

- a) The calling and called numbers,
- b) The IMSI of the calling party,
- c) The IMEI of the calling party,
- d) The IMSI of the called party,
- e) The IMEI of the called party,
- f) In case of pre-paid anonymous services: the date and time of the initial activation of the service and the cell identification from which the service was activated,

3. Concerning Internet access, Internet e-mail and Internet telephony:

- a) The calling telephone number via modem access (dial-up access),
- b) The digital subscriber line or other end point of the originator of the communication.

F. Data necessary to identify the location of the mobile terminal equipment:

- 1. Data of the location of the cell at the start of the communication,
- 2. Data identifying the geographic location of cells in reference to their identification during the period of retaining the data about the communication.

**TEMPLATE**

**Application for the provision of a grant in support of the project**

Date of application delivery  
(place for the official record)

Project name	
Applicant (address and surname or name)	
Permanent residence address or site of the applicant (street, number, postal number, municipality)	
Legal status of the applicant	
Identification number of the organization (legal person, natural person - undertakers)	
Registration number	
Applicant's statutory representative (Name and surname, function)	
Contact person (telephone, fax, e-mail)	
Bank connection (separate account number, bank, code – numeric, SWIFT)	
Total budget (in euros)	
Co-financing (in euros)	
The amount of requested grant (in euros)	

I declare that the data given in the application are true, exact and complete.

In ..... Date .....

Impression of the applicant's stamp	Signature of the applicant's statutory representative

**TEMPLATE**

**Project description**

Project name:	
Implementation time	
Project purpose	
The bases	
Project schedule	
Required inputs	
Expected outputs (qualitative and quantitative measure of measuring the project success)	
professional project guarantor (name, surname, title)	
Contact person (telephone, facsimile, e-mail):	
Total budget (costs) in euros	
Co-financing (other sources, your sources of it) in euros	
The amount of the required grant in euros	

In ..... Date .....

Impression of the applicant's stamp	Signature of the applicant's statutory representative

The list of the transposed legally binding Acts of the European Union

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) (Special edition of OJ chap. 13/Vol. 29) as amended by Regulation of the European Parliament and of the Council No. 717/2007 of 27 June 2007 (OJ L 171, 29. 6. 2007) and Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 (OJ L 337, 18. 12. 2009).
2. Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation for electronic communications networks and services (Authorisation Directive) (Special edition OJ, chap. 13/Vol. 29) as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 (OJ L 337, 18. 12. 2009).
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 and Interconnection Directive) (Special edition OJ, chap. 13/Vol. 29) as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 (OJ L 337, 18. 12. 2009).
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) (Special edition OJ, chap. 13/Vol. 29) as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 (OJ L 337, 18. 12. 2009).
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) (Special edition OJ, chap. 13/Vol. 29) as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 (OJ L 337, 18. 12. 2009).
6. Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC (OJ L 105, 13. 4. 2006).