

Unofficial consolidated translation  
Legal status as of June 2013

**Telecommunications Act<sup>1)</sup>**  
of 16 July 2004  
(Journal of Laws of 03 August 2004)

**PART I**  
**General Provisions**

**Chapter 1**  
**Scope of the Act**

**Article 1.** 1. The Act shall specify:

- 1) principles of performing and monitoring business activities consisting in the provision of telecommunications services, the provision of telecommunications networks or associated facilities, hereinafter referred to as “telecommunications activities”;
- 2) rights and obligations of telecommunications undertakings;
- 3) rights and obligations of users and radio equipment users;
- 4) conditions for undertaking and pursuing business activities which consist in the provision of networks and associated facilities and in the provision of telecommunications services, including networks and services intended for the broadcasting or re-broadcasting of radio and television programmes;
- 5) conditions for regulating telecommunications markets;
- 6) conditions for universal service provision;
- 7) conditions for the protection of services users, in particular with regard to the privacy and confidentiality;
- 8) conditions for frequency, orbital resources and numbering management;
- 9) conditions for data processing within telecommunications and the protection of telecommunications confidentiality;
- 10) tasks and obligations in favour of national defence, state security and public order and safety within the scope of telecommunications;
- 11) requirements that should be met by radio equipment and telecommunications terminal equipment;
- 12) communications administration functioning, its cooperation with other domestic bodies and European Union institutions within the scope of telecommunications regulation.
- 13) requirements concerning the facilities for disabled persons with respect to access to telecommunications services.

2. The purpose of the Act shall be to create the conditions for:

- 1) supporting equal and effective competition within the scope of providing telecommunications services;
- 2) the development and use of modern telecommunications infrastructure;
- 3) ensuring order in the management of numbering, frequencies and orbital resources;
- 4) ensuring that users derive maximum benefit in terms of choice, price, and quality of telecommunications services;
- 5) ensuring technological neutrality;
- 6) ensuring that end users who are disabled persons have access to telecommunications services equivalent to the level of access offered to other end users.

3. The provisions of the Act shall be without prejudice to the provisions on competition and consumer protection and to the provisions of the Broadcasting Act of 29 December 1992 (Journal of Laws of 2004 No. 253, item 2531 with subsequent amendments<sup>2</sup>).

**Article 2.** The following terms used within this Act shall mean:

- 1) subscriber – an entity who is a party to an agreement for the provision of telecommunications services concluded with a provider of publicly available telecommunications services;
- 2) public pay telephone – a telephone available to the general public where the call is paid automatically, in particular by means of coins, tokens, phone cards or debit/credit cards;
- 3) apparatus – apparatus within the meaning of the provisions of the Electromagnetic Compatibility Act of 13 April 2007 (Journal of Laws No 82, item 556);
- 4) provision of a telecommunications network – the establishment of a telecommunications network in a manner which enables the provision of services via such a network, its operation, control or providing telecommunications access;
- 5) access to the local loop - using a local loop or a local sub-loop allowing full usage of the local loop capacity (full access to the local loop) or usage of part of the local loop capacity while maintaining the possibility for another telecommunications undertaking to use the local subscriber loop (shared access to the local loop);
- 6) telecommunications access - use of telecommunications facilities, associated facilities or services provided by another telecommunications undertaking, under defined conditions, for the purpose of providing telecommunications services, including when they are used for the delivery of services by electronic means or broadcast content services, consisting in particular in:
  - a) access to network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means, including access to the local loop and to facilities and services necessary to provide services over the local loop,
  - b) access to buildings and telecommunications infrastructure,
  - c) access to relevant software systems, including operational support systems,
  - d) access to number translation or systems offering equivalent functionality,
  - e) access to telecommunications networks, in particular for roaming,
  - f) access to conditional access systems,
  - g) access to virtual network services,
  - h) access to information systems or databases for pre-ordering, ordering, provision of services, maintenance, fault repair, complaints and billing;
- 7) electronic programme guide – technical measures or solutions which permit the choice of programmes used in digital television systems, including additional data describing programmes in the digital television signal;
- 8) telecommunications infrastructure – telecommunications equipment, excluding telecommunications terminal equipment and including in particular lines, cable ducts, posts, towers, masts, cables, wires and equipment used to ensure the provision of telecommunications;
- 8a) telecommunications building installation - elements of telecommunications infrastructure, in particular cables and wires together with telecommunications equipment and telecommunications devices, from the point of connection with the public telecommunications network (cable distribution frame) or from a radio system device to the subscriber's socket;
- 9) instruction – detailed instruction prepared by a telecommunications undertaking with regard to the regulatory accounting run by it, including a description of its adopted enterprise methods for assigning assets and liabilities, revenues and costs to activities within the scope of telecommunications access or services in the retail market;

- 10) interface – an electrical, electronic or optical system, with or without software, which permits interconnection, cooperation and exchange of signals of a given form between equipment connected through this interface according to the relevant technical specification;
- 11) application programme interface - software which permits connection, cooperation and information exchange between applications provided by broadcasters or service providers and digital television equipment that enables conveyance of digital signals for the provision of television or radio services;
- 12) radio interface - an interface which permits radio connection, cooperation and information exchange between radio equipment;
- 13) interoperability of services – the ability of telecommunications networks to effectively cooperate for the purpose of ensuring mutual access for users to services provided within those networks;
- 14) cost calculation – calculation by a telecommunications undertaking of costs related to the provision of services, separately for each service for which the undertaking is obliged to calculate costs, according to the cost calculation description approved for a given financial year by the President of the Office of Electronic Communications, hereinafter referred to as the President of UKE;
- 15) collocation – granting physical space or technical equipment in order to place and connect equipment necessary for an operator connecting its network to another operator's network or using access to the local loop;
- 16) (deleted);
- 17) communication – any information exchanged or transmitted between specific users by means of publicly available telecommunications services; this does not include information transmitted as part of radio or television transmissions broadcast by a telecommunications network, excluding information related to an identifiable subscriber or to the user receiving the information;
- 18) consumer - any natural person who requests or uses publicly available telecommunications services for purposes outside his/her trade, business or profession;
- 19) local loop - a physical circuit connecting a network termination point directly to an access point of the public fixed telecommunications network, in particular to its main distribution frame or an equivalent device;
- 20) local sub-loop – a partial local loop connecting a network termination point to an intermediate access point of the public fixed telecommunications network, in particular to its concentrator or another device for indirect access to the public fixed telecommunications network;
- 20a) multiplex - combined stream of digital data, consisting of two or more streams made of data being part of radio or television content and of additional data, including in particular data related to conditional access systems or additional services;
- 21) emergency number – a number specified in the Act or in the national numbering plan for public telecommunications networks which is made available to statutory emergency services;
- 22) geographic number - a number from the national numbering plan where part of its digit structure contains geographic significance used for routing calls to a fixed location of the network termination point;
- 23) non-geographic number – a number from the national numbering plan which does not contain a digit structure determining geographic significance, in particular public mobile telecommunications network numbers, free phone numbers and premium rate numbers;
- 23a) digital receiver - a consumer device intended for the reception of digital television transmissions, including at least a tuner (with a high frequency head and demodulator), demultiplexer and decoders for received services as well as a picture display (iDTV) or without a picture display;

23b) multiplex operator - an entity which:

a) obtained a general exclusive frequency licence in a broadcasting service for the broadcasting or re-broadcasting of television or radio programmes in a digital terrestrial way within the multiplex and

b) performs telecommunications activities and has its own telecommunications infrastructure or concluded an agreement for the provision of multiplex signal transmission service with a broadcasting network's operator;

23c) broadcasting network's operator - a telecommunications undertaking providing terrestrial broadcasting signal transmission services;

24) (deleted);

24a) call – physical or logical connection of telecommunications terminal equipment allowing for transfer of telecommunications messages;

25) network interconnection - physical and logical connection of public telecommunications networks used by the same or different telecommunications undertakings in order to allow users of services or networks of one telecommunications undertaking to communicate with the users of services or networks of the same or another telecommunications undertaking, or to access services provided by another telecommunications undertaking; network interconnection is a specific kind of telecommunications access implemented between operators;

26) telephone call - a call established by means of a publicly available telecommunications service, supporting two-way voice communications;

27) telecommunications undertaking – an undertaking or another entity authorised to pursue business activities under separate provisions and which conducts business activities consisting in the provision of telecommunications networks, associated facilities or in the provision of telecommunications services, whereby the telecommunications undertaking authorised to provide:

a) telecommunications services shall be referred to as a “service provider”,

b) public telecommunications networks or associated facilities shall be referred to as an “operator”;

27a) telecommunications message – contents of telephone calls and other information transmitted by means of telecommunications networks;

27b) telecommunications connection:

a) a section of an underground cable line, an overhead cable line or a cable duct, contained between a branch connector and a termination point of these lines or ducts within a building facility,

b) a wireless system connecting an internal installation of a building facility with a node in the public telecommunications network

- enabling the use of publicly available telecommunications services within a building facility;

28) (deleted);

29) public telecommunications network – a telecommunications network used mainly for the provision of publicly available telecommunications services;

30) publicly available telephone service - a telecommunications service made available to the public for originating and receiving, directly or indirectly, national or national and international telephone calls through a number or numbers in a national or international telephone numbering plan;

31) publicly available telecommunications service – a telecommunications service available to the general public;

32) regulatory accounting – a particular kind of accounting in relation to accounting under the provisions of the Accounting Act of 29 September 1994 (Journal of Laws of 2002, No. 76,

item 694 with subsequent amendments<sup>3</sup>), run by a telecommunications undertaking due to its activities in the field of providing telecommunications access or services in the retail market, according to the instruction approved for a given financial year by the President of UKE;

33) public mobile telecommunications network – a public telecommunications network where termination points have no fixed location;

34) retail market – product and service market for telecommunications services for end users;

34a) access network - part of a telecommunications network between a termination point where it is possible to obtain telecommunications access, covering in particular subscriber lines, equipment for concentration of subscriber lines or devices for access network management;

35) telecommunications network - transmission systems and switching or routing equipment as well as other resources, including non-active network elements, which enable the emission, reception or transmission of signals by wire, radio, optical or other electromagnetic means, irrespective of their type;

36) radiocommunication service – emission, reception or transmission of radio waves for the fulfilment of tasks specified for the given service in international radiocommunication regulations;

37) amateur radiocommunication service – a radiocommunication service aimed at establishing mutual communications, technical research and individual training performed for non-profit purposes and only for the private needs of authorised persons;

38) public fixed telecommunications network – a public telecommunications network where network termination points have a fixed location;

38a) multiplex signal - a radio signal transmitted with the engagement of a frequency channel or block in a broadcasting service, conveying contents included in the multiplex;

39) conditional access system - any technical measure or arrangement whereby access to a protected radio or television broadcasting service in intelligible form is made conditional upon subscription or another form of prior individual authorisation;

40) harmful electromagnetic disturbance – electromagnetic disturbance within the meaning of the provisions of the Electromagnetic Compatibility Act of 13 April 2007 which exceeds permissible levels of disturbance;

40a) harmful interference - interference which:

a) puts in danger the functioning of a radionavigation or another safety-related radiocommunication service or

b) in a serious manner degrades, obstructs or repeatedly interrupts the performance of a radiocommunication service operating in accordance with the provisions of law;

41) provision of telecommunications services – the performance of services by means of one's own network, another operator's network or selling on one's own behalf and on one's own account a telecommunications service performed by another service provider;

42) telecommunications – the emission, reception or transmission of information, irrespective of its type, by wire, radio, optical or other electromagnetic means;

43) telecommunications terminal equipment – telecommunications equipment intended for connection directly or indirectly to network termination points;

44) associated facilities - associated services, physical infrastructures and other facilities or elements associated with a telecommunications network or telecommunications services which enable or support the provision of services via that network or service or have the potential to do so, and include, inter alia, buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets;

44a) associated services - services associated with a telecommunications network or a telecommunications service which enable or support the provision of services via that

network or service or have the potential to do so and include, inter alia, number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence service;

45) radio equipment – telecommunications equipment capable of communication by means of the emission or reception of radio waves;

46) telecommunications equipment – electrical or electronic equipment designed to ensure telecommunications;

47) value added service – any telecommunications service which requires the processing of location data;

48) telecommunications service – a service which consists mainly in the transmission of signals via a telecommunications network;

49) user - an entity using or requesting a publicly available telecommunications service;

50) end user – an entity using or requesting a publicly available telecommunications service to satisfy its own needs;

51) (deleted);

52) network termination point – a physical point at which a subscriber is provided with access to a public telecommunications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be assigned to the subscriber's number or name;

53) orbital resources – positions in the geostationary orbit or satellite orbits which are or may be used to place artificial Earth satellites designed for ensuring telecommunications.

**Article 3.** 1. The provisions of the Telecommunications Act shall apply to legal relations within the scope of telecommunications unless ratified international agreements binding the Republic of Poland provide otherwise.

2. Where international agreements binding for the Republic of Poland, including resolutions of international organisations established by those agreements, provide for equal treatment of a Polish and foreign entity, the Minister competent for communications shall ensure equal treatment of those entities also in the executive regulations to this Act.

3. In order to increase the effectiveness of telecommunications, the Minister competent for communications may, by means of an ordinance, implement specialist international requirements and recommendations, including those related to telecommunications security and correctness, numbering, frequencies and orbital resources management, established in particular by:

- 1) the International Telecommunications Union (ITU);
- 2) the European Conference of Postal and Telecommunications Administrations (CEPT);
- 3) the European Committee for Electro-technical Standardization (CENELEC);
- 4) the International Electro-technical Commission (IEC);
- 5) the European Telecommunications Standards Institute (ETSI).

4. The requirements and recommendations referred to in paragraph 3 shall be hereinafter called “international regulations”.

**Article 4.** The provisions of Article 143 shall not apply to the performance of telecommunications activities and the use of radio equipment by:

- 1) organisational units of and subordinate to the Minister of National Defence or supervised by him/her and agencies and organisational units supervised by or subordinate to the Minister competent for internal affairs – for their own needs;
- 2) agencies and organisational units subordinate to the Minister competent for internal affairs and organisational units of the Internal Security Agency in relation to the telecommunications network operated by those agencies and units for the needs of the

Chancellery of the President, the Chancellery of Sejm, the Chancellery of the Senate and government administration;

3) foreign armed forces units and organisational units of other foreign agencies which temporarily reside in the territory of the Republic of Poland on the basis of agreements to which the Republic of Poland is a party – for the duration of their stay;

4) organisational units of the Internal Security Agency, Foreign Intelligence Agency and the Central Anti-Corruption Bureau – for their own needs;

5) organisational units subordinate to the Minister competent for foreign affairs – for their own needs;

6) diplomatic missions, consular offices, foreign special missions and international organisations representations which exercise the privileges and immunities on the basis of acts, international agreements and practices, and which are seated in the territory of the Republic of Poland – only within the scope related to the diplomatic activities of these entities and subject to agreement referred to in Article 148b;

7) organisational units of the Penitentiary Service – for their own needs;

8) organisational units performing intelligence activities related to taxation which are part of the organisational units of tax control and are supervised or subordinate to the Minister competent for public finance – for their own needs.

**Article 5.** 1. The Minister of National Defence and the Minister competent for internal affairs, in agreement with the Minister competent for communications may specify, within the limits of their competence, by means of an ordinance, detailed conditions for the performance of telecommunications activities, referred to in Article 4 point (1) and (3), and also for the use of radio equipment by subordinate, supervised and submitted agencies and organisational units and units referred to in Article 4 point (3), taking account of the scope of tasks performed by those agencies and units.

2. The Prime Minister may specify, by means of an ordinance, detailed principles for the performance of telecommunications activities as well as for the use of radio equipment by organisational units of the Internal Security Agency and Foreign Intelligence Agency, taking account of the scope of tasks performed by those units.

2a. The Prime Minister may specify, by means of an ordinance, detailed principles for the performance of telecommunications activities as well as for the use of radio equipment by organisational units of the Central Anti-Corruption Bureau, taking account of the scope of tasks performed by those units.

3. The Minister competent for public finance, in agreement with the Minister competent for communications, may specify, by means of an ordinance, detailed principles for the performance of telecommunications activities as well as for the use of radio equipment by organisational units performing tax intelligence activities which are part of tax control organisational units, taking account of the scope of tasks performed by those units.

4. The Prime Minister may specify, by means of an ordinance, detailed conditions for the performance of telecommunications activities by agencies and organisational units subordinate to the Minister competent for internal affairs and organisational units of the Internal Security Agency – in relation to the telecommunications network operated by those agencies and units for the needs of the Chancellery of the President, the Chancellery of the Sejm, the Chancellery of the Senate and government administration, taking account of the scope of tasks performed by those agencies and units.

**Article 6.** 1. A telecommunications undertaking or an entity which has received a radio licence referred to in Article 143 (1), a general exclusive frequency or orbital resources licence or a numbering assignment, excluding entities referred to in Article 4, shall submit, at

the request of the President of UKE, information necessary for the performance by the President of UKE of rights and duties specified in Article 192 (1).

2. The request referred to in paragraph 1 should be proportionate to the purpose it serves and should contain:

- 1) indication of an undertaking or an entity referred to in paragraph 1;
- 2) the date;
- 3) indication of requested information and the period to which it refers;
- 4) indication of the purpose the information serves;
- 5) indication of a time limit for submitting information adequate to the scope of a request, not shorter than 7 days;
- 6) justification;
- 7) advice on the risk of penalty referred to in Article 209 (1).

3. The President of UKE may apply forms designed by him/her for collecting information referred to in paragraph 1, striving for consolidation and consistency of obtained data.

**Article 6a.** An operator of a public telecommunications network shall submit at the request of the President of UKE information on the location and type of owned telecommunications infrastructure or public telecommunications network, located in the area covered by the request, for the purposes of applying for telecommunications access by local government units or defining whether public intervention in the telecommunications sector is justified.

**Article 6b.** 1. An operator of a public telecommunications network shall submit, at the request of the President of UKE, a list of:

- 1) areas which were covered with the public telecommunications network provided by that operator in the previous year;
- 2) new areas which in the current year will be covered with the public telecommunications network, together with conditions under which this is to take place.

2. An operator of a public telecommunications network shall be obliged to submit at the request of the President of UKE information about planned development of its network and services that could have an impact on wholesale services provided by that operator.

3. An undertaking with significant market power in a wholesale market shall be obliged to submit at the request of the President of UKE accounting data on retail markets related to that wholesale market.

4. The provisions of Article 6 (2) and (3) shall apply to the submission of data and information referred to in paragraph 1-3.

**Article 7.** 1. A telecommunications undertaking with annual revenues from performing telecommunications activities in the previous financial year exceeding the amount of PLN 4 million shall submit to the President of UKE:

- 1) an annual financial statement by 30 June;
- 2) information concerning the type and scope of performed telecommunications activities and the sales volume of telecommunications services by 31 March.

2. A telecommunications undertaking with annual revenues from performing telecommunications activities in the previous financial year equal to or less than the amount of PLN 4 million shall submit to the President of UKE by 31 March information concerning the type and scope of the performed telecommunications activities and the sales volume of telecommunications services.

3. The Minister competent for communications shall specify, by means of an ordinance, the templates used to submit to the President of UKE the information referred to in paragraph 1 (2) together with explanations related to the manner of their filling, guided by the necessity to



provide the President of UKE with the information necessary for proper execution of his/her obligations.

**Article 8.** 1. The President of UKE shall make the information received from telecommunications undertakings available to the regulatory authorities of other European Union Member States, and to the Member States of the European Free Trade Association (EFTA) – parties to the Agreement on the European Economic Area, hereinafter called the “Member States” and the European Commission, with the exclusion of cases specified in the Act.

2. The President of UKE shall inform a telecommunications undertaking on making available the information submitted earlier by this undertaking at the request of the President of UKE.

**Article 9.** 1. A telecommunications undertaking may consider information, documents or their parts including business confidentiality, submitted at the request of the President of UKE or on the basis of the provisions of the Act, as confidential.

2. The President of UKE may repeal confidentiality by means of a decision where he/she finds that this information is necessary.

3. The confidentiality shall be taken into account while publishing information or documents and ensuring access to public information.

4. In the case of the statutory obligation to submit information or documents received from undertakings to other national bodies, foreign regulatory authorities or the European Commission, the information and documents shall be submitted subject to confidentiality and under the condition of its observance.

## Chapter 2

### The Performance of Telecommunications Business Activities

**Article 10.** 1. The telecommunications activities which constitute business activities shall be the regulated activities and shall be subject to entry in the register of telecommunications undertakings, hereinafter referred to as “the register”. Telecommunications activities conducted by a telecommunications undertaking from a Member State or a state which concluded with the European Community and its Member States an agreement on the freedom to provide services and which temporarily provides services in the territory of the Republic of Poland under the terms and conditions specified in the provisions of the Treaty establishing the European Community, Agreement on the European Economic Area or in the provisions of another agreement regulating the freedom to provide services, as appropriate, shall be also subject to entry in the register.

1a. Activities referred to in Article 3 (1) of the Act of 7 May 2010 on supporting the development of telecommunications networks and services (Official Journal No. 106, item 675 and of 2012, item 951 and 1256), not constituting business activities, conducted by a local government unit, also in a form not represented as part of its legal personality as well as in a form of an agreement, a union or an association of local government units, a municipal agreement, an association of capital or a cooperative society with a local government unit's participation, require an entry in the register of local government units performing activities within the scope of telecommunications.

2. The President of UKE shall be an authority responsible for keeping the register and the register of local government units performing activities within the scope of telecommunications.

3. (deleted);

4. Entry in the register shall be made on the basis of a request submitted by the undertaking or another entity authorised to perform business activities under separate provisions. Such a request shall include the following information:

- 1) the company of the undertaking or the name of another entity authorised to perform business activities under separate provisions, its seat and address;
- 2) the indication of a legal form of the undertaking or another entity authorised to perform business activities under separate provisions;
- 3) tax identification number;
- 4) the number in the entrepreneurs register or business activities register or another relevant register maintained by a Member State or another state specified in paragraph 1;
- 5) the indication of a person authorised to contact on behalf of the undertaking or another entity authorised to perform business activities under separate provisions with the President of UKE, its seat, address and telephone number;
- 6) the name, surname, address and phone number of a person authorised to contact on behalf of the undertaking or another entity authorised to perform business activities under separate provisions in the case of emergency related to the telecommunications network operation or telecommunications service provision the request refers to;
- 7) a general description of the telecommunications network, telecommunications service and associated services to which the request refers.
- 8) the area where the telecommunications activities are to be performed;
- 9) the anticipated telecommunications activities start-up date.

5. Together with the request, the undertaking or another entity authorised to perform business activities under separate provisions shall submit the statement of the following content: "Being aware of penal responsibility for the submission of a false statement resulting from Article 233 § 6 of the Penal Code, I hereby declare that:

- 1) the information included in the request for entry in the register of telecommunications undertakings is true;
- 2) I am aware of and fulfil the conditions for performing the telecommunications activities the request refers to which result from the Telecommunications Act of 16 July 2004."

6. The statement referred to in paragraph 5 shall also include:

- 1) the company of the undertaking or the name of another entity authorised to perform business activities under separate provisions, its seat and address;
- 2) the indication of the place and date of submitting the statement;
- 3) the signature of a person authorised to represent the undertaking or another entity authorised to perform business activities under separate provisions with the indication of the name and surname and the function.

7. (deleted);

8. The President of UKE shall register an undertaking or another entity authorised to perform business activities under separate provisions, within 7 days of the day on which the request together with a statement referred to in paragraph 5 was received.

9. Where the President of UKE fails to make an entry in the register within the time limit referred to in paragraph 8, and 14 days have passed from the day of the receipt of the request, the undertaking or another entity authorised to perform business activities under separate provisions may commence the performance of telecommunications activities having notified the President of UKE thereof in writing. This does not apply in a situation where the President of UKE requests the undertaking or another entity authorised to perform business activities under separate provisions to supplement the request for entry in the register within the time limit referred to in paragraph 8.

10. Article 64 of the Code of Administrative Proceedings of 14 June 1960 (Official Journal of 2000 No 98, item 1071, with subsequent amendments) shall apply as appropriate to the request for entry in the register.

11. (deleted);

12. The request for entry in the register, the attachments to this request and the entry in the register shall not be subject to stamp duty.

13. The register shall include the following information:

- 1) the consecutive number of the entry, hereinafter referred to as the “register number”;
- 2) the date of receipt of the request for entry in the register and the entry date;
- 3) data referred to in paragraph 4 point 1 to 8;
- 4) other details indicated in the Act.

14. The register may be kept electronically.

15. The Minister competent for communications may specify, by means of an ordinance, the types of telecommunications activities referred to in paragraph 1 which are exempt from the obligation of entry in the register, having regard to the nature, scope and type of such activities.

**Article 11.** 1. The President of UKE within 7 days of the entry in the register shall issue ex officio a certificate of entry in the register, hereinafter referred to as “the certificate”.

2. The certificate should include:

- 1) the register number;
- 2) the data referred to in Article 10 (13) point 2 and 3;
- 3) the information on the telecommunications undertaking’s rights under the Act.

3. Where the information included in the certificate is different from the information included in the register, the information included in the register shall be deemed binding.

4. The issuance of the certificate shall not be subject to stamp duty.

**Article 12.** 1. In the event of changes to the data referred to in Article 10 (4) point 1 to 8, the telecommunications undertaking shall immediately submit a written request to the President of UKE for modification to the entry in the register.

2. The request referred to in paragraph 1 should contain the register number and tax identification number.

3. The President of UKE on the basis of the request referred to in paragraph 1 shall modify the entry in the register and issue an up-to-date certificate. The provisions of Article 11 shall apply accordingly.

**Article 13.** The Minister competent for communications shall specify, by means of an ordinance, the template request for entry or the modification of an entry:

- 1) in the the register of telecommunications undertakings,
- 2) in the register of local government units performing activities within the scope of telecommunications.

- guided by the aspiration to simplify and facilitate the take-up of telecommunications activities as well as the necessity to provide the President of UKE with the information necessary for proper execution of his/her obligations.

**Article 13a.** The provisions of Article 10 (4) to (6), (8) to (10) and (12) to (14) as well as Article 11 and Article 12 shall accordingly apply to entries relating to activities referred to in Article 3 (1) of the Act of 7 May 2010 on supporting the development of telecommunications networks and services, to the register of local government units performing activities within the scope of telecommunications. The statement referred to in Article 10 (5) in the case of an

entity submitting a request for entry in the register of local government units performing activities within the scope of telecommunications should also indicate that it is aware of and fulfils the conditions for performing the activities the request refers to which result from the Act of 7 May 2010 on supporting the development of telecommunications networks and services.

**Article 14.** (deleted).

### **Chapter 3 Consultation proceedings**

**Article 15.** The President of UKE prior to taking measures on cases of:

- 1) definition of a relevant market referred to in Article 22 (1) (1), its analysis and designation of a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power or repeal of a decision in this matter,
  - 2) imposition, withdrawal, maintenance or amendment of regulatory obligations in relation to a telecommunications undertaking with or without significant market power,
  - 3) (deleted),
  - 3a) decisions concerning access referred to in Article 139,
  - 4) other cases indicated in the Act and the Act of 7 May 2010 on supporting the development of telecommunications networks and services
- shall conduct consultation proceedings which allow interested parties to express in writing their position in relation to the draft decision within the specific time limit.

**Article 16.** 1. The President of UKE shall announce the commencement of consultation proceedings by specifying the subject and the time limit of consultation proceedings and making the draft decision available together with its reasoning. The President of UKE shall inform the President of the Office for Competition and Consumer Protection, hereinafter referred to as "the President of the UOKiK", about the commencement of consultation proceedings. In cases regarding radio and television broadcasting markets the President of UKE shall also inform the Chairperson of the National Broadcasting Council, hereinafter referred to as the Chairperson of KRRiT, about the commencement of consultation proceedings.

2. Unless the President of UKE stipulates a longer period, consultation proceedings shall last 30 days, starting from the day of the announcement of the commencement of these proceedings. The results of the proceedings shall be announced within the UKE's premises and on the Public Information Bulletin website of the Office of Electronic Communications, hereinafter referred to as "the UKE BIP website" by publishing non-confidential positions of participants to consultation proceedings.

**Article 17.** 1. In exceptional cases which require urgent action due to a direct and serious threat to competitiveness or user interests, the President of UKE may, without carrying out consultation proceedings, issue a decision in cases referred to in Article 15 for a period not exceeding 6 months.

2. The issuance of a subsequent decision in cases referred to in paragraph 1, including a decision whose content - except for the period of validity - corresponds to a previously issued decision, shall be preceded by consultation proceedings. This decision shall exclude the application of a decision referred to in paragraph 1, before the expiry of its validity.

**Article 17a.** The President of UKE shall publish on the UKE BIP website information on consultation proceedings in progress together with additional documents and positions of the participants which do not constitute business confidentiality (non-confidential positions of the participants to consultation proceedings).

#### **Chapter 4** **Consolidation proceedings**

**Article 18.** 1. In cases where decisions referred to in Article 15 may affect trade between Member States, the President of UKE, following the completion of consultation proceedings and examination of positions of participants to the proceedings, shall commence consolidation proceedings by sending draft decisions together with their reasoning to the European Commission, the Body of European Regulators for Electronic Communications, hereinafter referred to as the "BEREC" and regulatory authorities of other Member States.

2. Simultaneously with the activities referred to in paragraph 1, the President of UKE shall publish on the UKE BIP website the documents submitted to the European Commission as well as the opinions and decisions received in this case.

**Article 19.** 1. The President of UKE shall adopt a measure, taking the utmost account of comments of the European Commission, BEREC or regulatory authorities, submitted within one month of the date of receiving a draft measure. The President of UKE shall inform the European Commission of the adopted measure.

2. Where with respect to finding significant market power and the intention to define a relevant market which differs from those defined in the Commission Recommendation on relevant product and service markets in the electronic communications sector susceptible to ex-ante regulation, hereinafter referred to as "the Commission Recommendation", the European Commission informs the President of UKE of its opinion in which it finds that the draft measure would create a barrier to the single market or of its serious doubts as to the measure's compatibility with the European Union law, the President of UKE shall suspend proceedings for the period of 2 months. Where within that period the European Commission issues a decision requiring the national regulatory authority to withdraw a draft measure in full or in part, the President of UKE shall take account of the European Commission's position and shall amend the draft measure or shall discontinue proceedings within 6 months of the issuance of the decision by the European Commission.

2a. Where the President of UKE amends the draft measure under paragraph 2 the provisions of Articles 15-20 shall apply. The amendment to the reasoning of the draft measure shall not be an amendment to the draft measure.

2b. The President of UKE shall communicate to the European Commission and BEREC all adopted final measures referred to in Article 18.

3. The President of UKE while applying the Act, shall take the utmost account of the European Commission Guidelines on market analysis and the assessment of significant market power and the Commission Recommendation according to their current wording, and in the case of departing from their application, shall notify the European Commission and justify his/her position.

**Article 19a.** 1. Where with respect to the measure referred to in Article 18 imposing, amending or withdrawing an obligation imposed on an operator in application of Article 34, Articles 36-40, Article 42, Article 45 or Article 46, the European Commission, within the time limit referred to in Article 19 (1), notifies the President of UKE and BEREC of its reasons for considering that the draft measure would create a barrier to the single market or its

serious doubts as to the measure's compatibility with the European Union law, the draft measure in question may not be adopted for a further three months following the receipt of the Commission's notification by the President of UKE.

2. Within the three-month period referred to in paragraph 1, the President of UKE shall cooperate closely with the European Commission and BEREC to identify the most appropriate and effective measure in the light of the objectives laid down in Article 189 (2), whilst taking due account of the views of market participants and the need to ensure the development of consistent regulatory practice.

3. If BEREC shares the position of the European Commission expressed in a notification referred to in paragraph 1, the President of UKE shall cooperate closely with BEREC to identify the most appropriate and effective measure.

4. Before the end of the three-month period referred in paragraph 1, the President of UKE may:

1) amend or withdraw the draft measure taking utmost account of the Commission's notification referred to in paragraph 1 and of BEREC's opinion or

2) maintain the draft measure.

5. Within one month of the Commission issuing the recommendation requiring the national regulatory authority to amend or withdraw the draft measure or lifting the Commission's reservations regarding the draft measure, where BEREC does not share the position of the European Commission, has not issued an opinion or the President of UKE has amended or maintained the draft measure in accordance with paragraph 4, the President of UKE shall communicate to the Commission and BEREC the adopted final measure. The period referred to in the previous sentence may be extended by the President of UKE if it is necessary to conduct consultation proceedings referred to in Article 15.

6. Where the President of UKE decides not to amend or withdraw the draft measure despite a negative position expressed by the European Commission in a Recommendation referred to in paragraph 5, it shall provide a reasoned justification.

7. The President of UKE may withdraw a proposed draft measure at any stage of the procedure.

**Article 20.** 1. The provision of Article 17 shall accordingly apply to cases subject to consolidation proceedings.

2. The President of UKE shall immediately notify the European Commission, BEREC and the regulatory authorities of other Member States with regard to taking the decision referred to in Article 17 (1), providing a reasoned justification.

## **PART II**

### **Telecommunications market regulation**

#### **Chapter 1**

##### **Market analysis, proceedings to define relevant markets, impose, amend and withdraw regulatory obligations**

**Article 21.** 1. The President of UKE shall carry out the analysis of relevant markets within the scope of telecommunications products and services.

2. The President of UKE, not later than within 3 years from the adoption of a previous measure referred to in Article 22 (1) point 3 or 4 on a given relevant market shall notify the draft measure closing the procedure referred to in Article 22 (1).

3. For markets not previously notified to the European Commission the President of UKE, not later than within 2 years from the adoption of a revised Recommendation on relevant markets shall notify the draft measure closing the procedure referred to in Article 22 (1).

4. In justified cases the President of UKE may ask the European Commission for extension of the time limit referred to in paragraph 2 by 3 years at the maximum. In the case where the European Commission has not objected within one month of the notified extension, the time limit shall be extended as requested by the President of UKE.

**Article 22.** 1. Following the analysis referred to in Article 21 (1) the President of UKE shall carry out proceedings in order to:

1) define a relevant market for telecommunications products and services, hereinafter referred to as the “relevant market”, in line with competition law, taking the utmost account of the national circumstances and the Commission Recommendation and Guidelines referred to in Article 19 (3),

2) find whether there is a telecommunications undertaking with significant market power or whether there are telecommunications undertakings holding jointly significant market power in the relevant market,

3) designate a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power, where the relevant market is not found effectively competitive and to impose regulatory obligations on this telecommunications undertaking or undertakings holding jointly significant market power,

4) maintain, amend or withdraw regulatory obligations imposed on a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power prior to market analysis.

2. A regulatory obligation shall mean an obligation referred to in Article 34, Articles 36 to 40, Article 42, Article 44, Article 44b, Article 45, Article 46 or Article 72 (3).

**Article 23.** 1. Following the proceedings referred to in Article 22 (1), the President of UKE, having found that there is no telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power,

1) shall issue a resolution which:

a) defines a relevant market according to Article 22 (1) point 1,

b) finds that this relevant market is effectively competitive

- if there was no telecommunications market with significant market power or telecommunications undertakings holding jointly significant market power in that relevant market, or

2) shall issue a decision which:

a) defines a relevant market according to Article 22 (1) point 1,

b) finds that this relevant market is effectively competitive,

c) withdraws imposed regulatory obligations

- if there was a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power in that relevant market, which have lost their SMP.

2. In a decision referred to in paragraph 1 point 2, the President of UKE shall define a time limit for withdrawing regulatory obligations, taking account of the situation of telecommunications undertakings operating in that market and affected by this decision.

3. The draft resolution referred to in paragraph 1 shall be subject to the provisions on consultation proceedings.

4. The decision referred to in paragraph 1 point 2 shall be published on the UKE BIP website.

**Article 24.** Following the proceedings referred to in Article 22 (1), the President of UKE, having found that there is a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power, shall issue a decision which:

- 1) defines a relevant market according to Article 22 (1) point 1;
- 2) designates a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power and:
  - a) imposes regulatory obligations, taking account of adequacy and proportionality of a given obligation to market problems the solution of which serves the achievement of objectives specified in Article 1 (2), or
  - b) maintains imposed regulatory obligations if a telecommunications undertaking or telecommunications undertakings continue to hold SMP, or
  - c) amends or withdraws imposed regulatory obligations if a telecommunications undertaking or telecommunications undertakings continue to hold SMP, but conditions in a relevant market justify the amendment or withdrawal of these obligations.

**Article 25.** 1. If prior to the issuance of a decision referred to in Article 24, there was a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power in the same relevant market, which have lost their SMP, the President of UKE, by means of a decision, shall specify the time limit for withdrawing regulatory obligations, taking account of the situation of telecommunications undertakings operating in that market and affected by this decision.

2. The decision referred to in paragraph 1 shall be published on the UKE BIP website.

**Article 25a.** 1. A telecommunications undertaking shall have significant market power if it enjoys individually an economic position in a relevant market equivalent to dominance within the meaning of Community law.

2. While assessing the telecommunications undertaking's position in a relevant market, the President of UKE shall take into account criteria listed in the Commission guidelines referred to in Article 19 (3).

3. Two or more telecommunications undertakings shall have joint significant market power if, even in the absence of organisational or other links between them, they have an economic position in a relevant market equivalent to dominance within the meaning of Community law.

4. While finding whether two or more telecommunications undertakings have joint significant power in a relevant market, the President of UKE shall assess characteristics of a relevant market, in particular market shares of the undertakings and market transparency.

5. If the assessment does not indicate the absence of joint significant market power of two or more telecommunications undertakings, in addition the following criteria shall be applied in particular:

- 1) low elasticity of demand,
  - 2) similar market shares,
  - 3) high legal or economic barriers to entry,
  - 4) vertical integration with collective refusal to supply,
  - 5) lack of countervailing buyer power,
  - 6) lack of potential competition
- which do not have to be met cumulatively.

**Article 25b.** If a relevant market diverging from the Commission Recommendation is defined, the President of UKE shall submit a draft measure referred to in Article 23 (1) or in Article 24 for consolidation proceedings.



**Article 25c.** The measure referred to in Article 23 (1) or in Article 24:

- 1) shall be issued having sought the opinion of the President of UOKiK who shall issue a resolution;
- 2) shall be published on the UKE BIP website;
- 3) takes the utmost account of opinions and common positions adopted by BEREC.

**Article 25d.** Where the relevant market is found to be transnational by means of a decision of the European Commission, the President of UKE shall carry out its analysis in agreement with regulatory authorities of other Member States. The provision of Article 23 or 24 shall apply as appropriate.

**Article 25e.** 1. An undertaking with significant market power in a relevant market may be deemed to have significant market power in another relevant market, where the links between the two markets are such as to allow the market power held in one relevant market to be leveraged into the other relevant market (closely related market), thereby strengthening the market power of the undertaking.

2. In order to prevent that significant market power is leveraged from a relevant market to a closely related market, the President of UKE, following the analysis referred to in Article 21 (1), may impose in a closely related market regulatory obligations referred to in Articles 36-40 and in Article 42 on an undertaking referred to in paragraph 1.

3. If imposing obligations referred to in Articles 36-40 and in Article 42 did not prevent the leverage of significant market power from a relevant market to a closely related market, the President of UKE may impose in a closely related market obligations referred to in Article 46 on the undertaking referred to in paragraph 1.

**Article 25f.** 1. The President of UKE, where the time limits referred to in Article 21 (2) to (4) are not met, may request BEREC to consult on the analysis of a given market and the maintenance, amendment or withdrawal of regulatory obligations imposed on a telecommunications undertaking with significant market power or telecommunications undertakings holding jointly significant market power before completion of market analysis.

2. Within six months of receiving from BEREC the results of consultations, the President of UKE shall notify the draft measure to the European Commission.

## **Chapter 2**

### **Telecommunications access**

**Article 26.** 1. Telecommunications undertakings, while negotiating the provisions of a telecommunications access agreement, shall take account of obligations imposed on them.

2. Information obtained in connection to negotiations may only be used in line with its intended purpose and is subject to the obligation of confidentiality, unless the provisions of the Act provide otherwise.

3. Unless the Act provides otherwise, the provisions of this chapter referring to telecommunications undertakings shall apply to the entities referred to in Article 4 point (1), (2), (4), (5), (7) and (8) respectively.

4. An operator from the Member State applying for telecommunications access shall not be obliged to make an entry in the register referred to in Article 10, provided that it does not perform telecommunications activities in the territory of the Republic of Poland.

**Article 26a.** A public telecommunications network operator at the request of another telecommunications undertaking or entities referred to in Article 4 point (1), (2), (4), (5), (7)

and (8) shall conduct negotiations regarding the conclusion of an agreement on telecommunications access with respect to interconnection and with respect to telecommunications access to be provided based on the regulatory obligations imposed on this operator, for the purpose of providing publicly available telecommunications services and ensuring the interoperability of services.

**Article 27.** 1. The President of UKE may specify, at a written request from each of the parties to negotiations for the conclusion of an agreement on telecommunications access with respect to interconnection or ex officio, by means of a resolution, the time limit for closing negotiations for the conclusion of this agreement, not longer than 90 days from the day of submission of the request for the conclusion of a telecommunications access agreement.

2. Where negotiations for the conclusion of an agreement on telecommunications access with respect to interconnection are not taken up, interconnection is refused by the obliged party or the agreement on telecommunications access with respect to interconnection is not concluded within the time limit referred to in paragraph 1, or the agreement is not concluded within 90 days of the day of submission of the request for the conclusion of a telecommunications access agreement, any of the parties may submit to the President of UKE a request for issuance of a decision resolving contentious issues or for determining the conditions of cooperation.

2a. The President of UKE may specify, at a written request by each party to negotiations for the conclusion of an agreement on telecommunications access conducted with an operator obliged to ensure telecommunications access based on the regulatory obligations imposed on this operator, or ex-officio, by means of a resolution, the time limit for closing negotiations for the conclusion of this agreement, not longer than 90 days from the day of submission of the request for the conclusion of a telecommunications access agreement.

2b. Subject to paragraph 2, where negotiations are not taken up by an operator obliged to ensure telecommunications access, access is refused by the obliged party or the agreement on telecommunications access is not concluded within the time limit referred to in paragraph 2a, or the agreement on telecommunications access is not concluded within 90 days of the day of submission of the request for the conclusion of a telecommunications access agreement, any of the parties may submit to the President of UKE a request for issuance of a decision resolving contentious issues or for determining the conditions of cooperation.

3. The request referred to in paragraph 2 and 2b should include a draft telecommunications access agreement, including the positions of the parties in the scope specified by the Act and the marking of those areas in the agreement as to which the parties were not able to reach an agreement.

4. The parties shall be obliged to submit to the President of UKE, at his/her request, within 14 days, their positions on divergences and the documents necessary to consider the request.

**Article 28.** 1. The President of UKE shall make his/her decision on telecommunications access within 90 days of the date of the submission of the request referred to in Article 27 (2) and (2b), taking account of the following criteria:

- 1) the interest of telecommunications network users;
- 2) obligations imposed on telecommunications undertakings;
  - 2a) development of modern telecommunications infrastructure, including promoting efficient investment in infrastructure and innovative technologies;
- 3) the promotion of modern telecommunications services;
- 4) the nature of contentious issues arisen and the practical possibility for implementing solutions related to technical and economic aspects of telecommunications access, both

proposed by telecommunications undertakings being parties to negotiations and constituting alternative solutions;

5) ensuring:

- a) the integrity of the network and interoperability of services,
- b) non-discriminating conditions of telecommunications access,
- c) the development of a competitive market for telecommunications services;
- 6) the market power of telecommunications undertakings whose networks are being interconnected;
- 7) public interest, including environment protection;
- 8) maintaining the continuity of universal service provision.

2. The President of UKE shall make the decision on ensuring telecommunications access to the entities referred to in Article 4 point (1), (2), (4), (5), (7) and (8) within 60 days of the date of the submission of the request referred to in Article 27 (2) and (2b), taking account of the criteria referred to in paragraph 1 point (1-4), (5) (a) and (c) and (6-8) and the needs of national defence, state security and public order and safety, as well as the specific nature of tasks performed by those entities.

3. The decision on telecommunications access in the scope of network interconnection may include the provisions referred to in Article 31 (2) and (3).

4. The decision on telecommunications access shall replace a telecommunications access agreement within the scope covered by the decision.

5. In cases where the interested parties conclude a telecommunications access agreement, the decision on telecommunications access shall expire by the virtue of law in the part covered by the agreement.

6. The decision on telecommunications access may be modified by the President of UKE at the request from any party concerned or ex officio, in cases justified by the need to protect the interests of end users, to ensure effective competition or interoperability of services.

7. The cases of pursuing property rights claims referring to non-performance or inadequate performance of obligations which result from the decision on telecommunications access shall be subject to judicial proceedings.

8. The President of UKE shall issue a decision on telecommunications access which includes all the findings necessary to ensure telecommunications access if one of the parties is a telecommunications undertaking on which the obligation under Article 34 and Article 45 has been imposed.

**Article 29.** The President of UKE may ex officio, by means of a decision, modify the content of a telecommunications access agreement or oblige the parties to the agreement to modify it in cases justified by the need to protect the interests of end users and to ensure effective competition or interoperability of services.

**Article 30.** 1. The provisions of Articles 26-28 and Article 33 shall apply to modifications in telecommunications access agreements.

2. A consolidated text of an agreement with all changes made shall be attached to the request for modification in the telecommunications access agreement which was modified at least once.

**Article 31.** 1. The conditions of telecommunications access and cooperation related thereto shall be determined by telecommunications undertakings in a telecommunications access agreement to be concluded in writing, otherwise invalid.

2. An agreement on telecommunications access with respect to interconnection should include provisions regarding, at least:

- 1) the location of telecommunications network interconnection points;
  - 2) technical conditions of telecommunications network interconnection;
  - 3) the settlements regarding:
    - a) ensuring telecommunications access and mutual use of telecommunications networks,
    - b) non-performance or inadequate performance of mutually provided telecommunications services;
  - 4) methods for meeting the requirements:
    - a) within the scope of interoperability of services, network integrity, procedures in the event of emergencies and failures, keeping telecommunications confidentiality and the protection of data in the network;
    - b) regarding electromagnetic compatibility;
  - 5) dispute resolution procedures;
  - 6) proceedings in the event of:
    - a) modifications to the contents of an agreement,
    - b) testing interoperability of services in interconnected telecommunications networks, especially in relation to examining the quality of telecommunications services,
    - c) reconstruction of interconnected telecommunications networks,
    - d) changes to telecommunications services on offer,
    - e) changes to numbering;
  - 7) conditions for terminating an agreement, related in particular to maintaining the continuity of universal service provision, if provided in interconnected networks, the protection of users' interests, as well as the needs of national defence, state security and public order and safety;
  - 8) types of mutually provided telecommunications services.
3. An agreement on telecommunications access with respect to interconnection may also include, depending on the type of interconnected networks, relevant provisions regarding:
- 1) ensuring continuity of telecommunications services provision in the event of terminating an agreement;
  - 2) collocation conditions for the needs of network interconnection;
  - 3) ensuring the quality of telecommunications services provided;
  - 4) effective use of frequency or orbital resources;
  - 5) shared use of numbering resources, including the assurance of:
    - a) equal access to directory services, to emergency numbers or other numbering agreed on an international scale, subject to the requirements of entities referred to in Article 4 point (1), (2), (4), (5), (7) and (8),
    - b) number portability;
  - 6) additional facilities, including auxiliary and advanced services related to the mutual provision of telecommunications services, in particular:
    - a) operator's consultant assistance,
    - b) national and international directory enquiry services,
    - c) calling and called line identification presentation,
    - d) telephone calls routing,
    - e) telephone calls made by means of phone cards,
    - f) making free phone calls and premium rate calls,
    - g) billing of performed telecommunications services, invoicing or vindication.

**Article 32.** The Minister competent for communications shall specify, by means of an ordinance, detailed requirements for ensuring telecommunications access, in particular with regard to:

- 1) holding negotiations concerning telecommunications network interconnection,

- 2) the performance of obligations related to telecommunications networks interconnection and regarding the fulfilment of requirements in relation to interoperability of services, network integrity, procedures in the event of emergencies and failures as well as telecommunications confidentiality.
  - 3) providing the entities referred to in Article 4 point (1), (2), (4), (5), (7) and (8) with telecommunications access to the public telecommunications network,
  - 4) preserving confidentiality of information related to ensuring telecommunications access,
  - 5) settlements resulting from the mutual use of a telecommunications network as well as non-performance or inadequate performance of mutually provided telecommunications services
- for the purpose of ensuring effective competition in the telecommunications market and the protection of end users.

**Article 33.** 1. A telecommunications undertaking obliged under Article 34 or Article 45 and the entity referred to in Article 4 point (1), (2), (4), (5), (7) and (8), being a party to a telecommunications access agreement, shall submit the text of this agreement to the President of UKE within 14 days of the date of signing the agreement.

2. Subject to paragraph 3, telecommunications access agreements referred to in paragraph 1 shall be public. The President of UKE shall make them available to interested entities at their request free of charge.

3. The President of UKE, at the request of a party to a telecommunications access agreement, may agree that certain provisions in the agreement shall not be public. Such exclusion may not include settlements resulting from telecommunications access.

**Article 34.** 1. The President of UKE, in line with the objectives referred to in Article 24 point (2a), may impose, by means of a decision, on an operator with significant market power the obligation to take account of justified requests from telecommunications undertakings to be provided with telecommunications access, including the use of network elements and associated facilities, in particular taking into account the level of competition in the retail market and end users' interest.

2. The obligation referred to in paragraph 1 may in particular consist in:

- 1) ensuring the possibility of managing end user's service by an authorised telecommunications undertaking and to make decisions concerning the provision of services for his/her benefit;
- 2) providing specific telecommunications network elements, including access to non-active network elements or telecommunications equipment, lines, links or local loops; the obligation to make local loops available may relate to a loop or a sub-loop, with full or shared access, together with collocation and access to cable lines and relevant information systems;
- 3) offering wholesale services for the purpose of their resale by another undertaking;
- 4) granting access to interfaces, protocols or other key technologies necessary for interoperability of services, including virtual network services;
- 5) providing telecommunications infrastructure, collocation and other forms of shared use of buildings;
- 6) providing network functions necessary to ensure full interoperability of services, including the provision of services in intelligent networks;
- 7) providing roaming services on mobile networks;
- 8) providing systems which support operational activities or other software systems necessary for effective competition, including tariff systems, systems for issuing invoices and collecting receivables;
- 9) providing associated facilities in relation to radio and television broadcasting;

10) providing network or telecommunications equipment interconnection and related facilities;

11) conducting negotiations in good faith with regard to telecommunications access and providing formerly established telecommunications access to specific telecommunications networks, equipment or associated facilities;

12) providing telecommunications services taking account of priority in accordance with Article 176a (2) point (3).

13) ensuring access to associated facilities, including identity, location and presence services.

3. The request of a telecommunications undertaking for telecommunications access shall be deemed justified provided that it takes account of the scope of the obligation determined in the decision referred to in paragraph 1 and the conditions referred to in Article 35 (1).

**Article 35.** 1. The President of UKE may specify, by means of the decision referred to in Article 34 (1), within the scope necessary to ensure correct functioning of the telecommunications network, technical or operational conditions which are to be met by a telecommunications undertaking providing telecommunications access or by telecommunications undertakings using such access.

2. While determining the scope of the telecommunications access obligation, the President of UKE shall, in particular, take account of the following:

1) technical and economic viability of using or installing competing equipment, taking account of the pace of market development and the type of network interconnection or telecommunications access, including viability of other solutions related to telecommunications access, such as access to cable ducts;

2) the possibility of ensuring proposed telecommunications access, taking account of the possessed network capacity;

3) preliminary investments made by the owner of the equipment or associated facilities, having regard to the investment risk and taking account of infrastructure used by the telecommunications undertaking that was developed in full or in part from public funds;

4) the necessity to ensure long term competition, including promoting efficient investment in infrastructure and innovative technologies;

5) the relevant intellectual property rights;

6) the provision of services covering the European continent.

**Article 36.** The President of UKE may, in line with the objectives referred to in Article 24 point (2a) and by means of a decision, impose on an operator with significant market power the obligation to treat the telecommunications undertakings equally in relation to telecommunications access, in particular through offering equal conditions in comparable circumstances, and offering services and making information available under the terms that are not worse than those applied within its own undertaking or in relation to subordinate entities.

**Article 37.** 1. The President of UKE may, in line with the objectives referred to in Article 24 point (2a) and by means of a decision, impose on an operator with significant market power the obligation to publish or make available information on the provision of telecommunications access related to the accounting data, technical specifications of the network and telecommunications equipment, network characteristics, the terms and conditions of service provision and network use as well as the charges.

2. The President of UKE shall specify, in the decision referred to in paragraph 1, the level of detail of the information and the form, place and time limits for publishing or making this information available.

3. The President of UKE may request the operator with significant market power to submit documents and provide information in order to verify the obligations referred to in paragraph 1, in Article 36 and Article 42.

4. The decision referred to in paragraph 3 shall be published on the UKE BIP website, taking account of the interests of an operator providing the information.

**Article 38.** 1. The President of UKE may, according to the objectives referred to in Article 24 point (2a) and by means of a decision, impose on an operator with significant market power the obligation to run regulatory accounting in a manner which permits the identification of internal transfers related to the operations in relation to telecommunications access, according to Articles 49-54.

2. The operator shall run regulatory accounting according to a detailed instruction approved by the President of UKE.

**Article 39.** 1. The President of UKE may, in line with the objectives referred to in Article 24 point (2a) and by means of a decision, impose on an operator with significant market power the obligation to:

1) calculate justified costs of providing telecommunications access, indicating the methods of cost calculation which should be applied by the operator on the basis of the provisions of the ordinance referred to in Article 51, according to the cost calculation description approved by the President of UKE;

2) apply fees for telecommunications access, taking account of the recovery of justified costs by an operator.

1a. The President of UKE shall indicate in the decision referred to in paragraph 1 the methods for establishing charges to be applied in cases referred to in paragraph 4.

2. The operator with the obligation referred to in paragraph 1 shall present to the President of UKE, at his/her request, a detailed justification of the level of charges established on the basis of justified costs.

3. In order to verify the level of charges referred to in paragraph 1 point 2, the President of UKE shall carry out an audit referred to in Article 53 (5).

4. In the event:

1) it is not possible to carry out an audit referred to in Article 53 (5) for the reasons on the part of an operator,

2) the entity entitled to carry out an audit referred to in Article 53 (5) refuses to express its opinion due to circumstances preventing the formulation of an opinion for the reasons on the part of an operator,

3) the entity entitled to carry out an audit referred to in Article 53 (5) expresses a negative opinion or an opinion with reservations,

4) there are significant differences between the amount of fees established by an operator and the amount of fees verified under paragraph 3

- the President of UKE shall establish the amount of fees for telecommunications access or their maximum or minimum level applying the methods referred to in paragraph 1a. The above fees shall be established in a separate decision.

5. The President of UKE while establishing fees for telecommunications access shall take into account the promotion of efficiency, sustainable competition and the assurance of maximum benefits for end users as well as the recovery of justified costs.

6. If an operator has incurred expenses on a new investment project, including on next-generation network roll-out, the President of UKE while determining fees for telecommunications access, shall take into account the investment made by that operator and

shall allow a reasonable rate of return on capital employed in a new investment project, taking into account any risks specific to a particular new investment project.

**Article 40.** 1. The President of UKE may, in line with the objectives referred to in Article 24 point (2a) and by means of a decision, impose on an operator with significant market power the obligation to set cost-based fees for telecommunications access.

1a. The President of UKE shall indicate in the decision referred to in paragraph 1 the methods for verification and establishing charges referred to in paragraph 3 and 4.

2. An operator on whom the obligation referred to in paragraph 1 was imposed shall submit to the President of UKE its justification of the amount of cost-based fees.

3. In order to verify whether the amount of fees applied by an operator referred to in paragraph 1 is correct, the President of UKE may apply verification methods indicated under paragraph 1a.

4. Where the verification referred to in paragraph 3 reveals that the amount of fees established by an operator is not correct, the President of UKE shall establish the amount of fees or their maximum or minimum level applying the methods for establishing fees referred to in paragraph 1a, taking account of the promotion of efficiency, sustainable competition and the assurance of maximum benefits for end users. The fees shall be established in a separate decision.

5. If an operator has incurred expenses on a new investment project, including on next-generation network roll-out, the President of UKE while determining the level of fees or their maximum or minimum amount in a decision referred to in paragraph 4, shall take into account the investment made by that operator and shall allow a reasonable rate of return on capital employed in a new investment project, taking into account any risks specific to a particular new investment project.

**Article 41.** 1. The fees for mutual use of interconnected networks related to the implementation of number portability between the networks should take account of the costs incurred.

2. The fees for mutual use of interconnected networks and for telecommunications access related to carrier selection should take account of the costs incurred.

**Article 42.** 1. The President of UKE may, in line with the objectives referred to in Article 24 point (2a) and by means of a decision, impose on an operator with significant market power on whom the obligation of equal treatment according to Article 36 was imposed, or together with that obligation, the obligation to prepare and submit within a specific time limit a draft telecommunications access reference offer, the level of detail of which shall be specified in a decision.

2. A telecommunications access reference offer should specify the terms and conditions for co-operation with the operator referred to in paragraph 1 and the fees for services related to telecommunications access.

3. A telecommunications access reference offer should consist of separate packages, including relevant telecommunications access elements corresponding to telecommunications activities performed by telecommunications undertakings.

4. The Minister competent for communications shall specify, by means of an ordinance, the scope of a telecommunications access reference offer in relation to network interconnection, leased lines and local loop unbundling, access to broadband equipment and bitstream access, taking account of the needs of the market, the development of competition and interoperability of services.



5. The telecommunications access reference offer with regard to network interconnection should include a transparent and complete list of services offered by an operator and technical and economic conditions of their provision.

6. If the operator, in addition to the obligation referred to in paragraph 1, was obliged to provide access to the local loop, a telecommunication access reference offer with regard to access to the local loop should include at least:

- 1) conditions for the provision of access to the local loop;
- 2) collocation services;
- 3) conditions of access to information systems;
- 4) conditions of service provision.

**Article 43.** 1. The President of UKE shall approve of a draft reference offer provided that it complies with the provisions of law and the needs of the market indicated in a decision which imposes the obligation to submit a reference offer, or shall modify the submitted draft reference offer and approve of it, and in the event of a reference offer not being submitted on time, shall determine a reference offer by himself/herself.

2. Where changes in demand for services or in market conditions occur, the President of UKE may ex officio, or following a justified request of a telecommunications undertaking, oblige an operator to modify a reference offer in whole or in part. Where the obliged operator fails to submit modifications to a reference offer within a specific time limit, the President of UKE shall independently determine modifications to the reference offer in whole or in part.

3. An operator's request for approval of a draft reference offer or of its modifications shall include information and documentation which proves the compliance of a reference offer with legal requirements and regulatory obligations referred to in Article 24 point (2a).

4. The President of UKE shall publish approved reference offers or modifications thereof on the UKE BIP website.

5. In the event of withdrawing the obligation to apply a reference offer, agreements concluded on the basis of a reference offer for an indefinite period of time may be terminated or modified not earlier than 90 days from the date of withdrawal of the obligation.

6. An operator on whom the obligation referred to in Article 42 (1) was imposed shall conclude telecommunications access agreements under the terms that are not worse for other parties to the agreement than those in the approved offer referred to in paragraph 1 or determined by the President of UKE.

**Article 43a.** 1. A telecommunications undertaking with significant market power on which regulatory obligations with respect to telecommunications access were imposed, may submit to the President of UKE a request for approval of proposed:

- 1) detailed conditions for the performance of regulatory obligations earlier imposed on the telecommunications undertaking or
- 2) other commitments of the telecommunications undertakings which may contribute to effective implementation of regulatory obligations imposed on telecommunications undertakings, development of equal and effective competition, development and use of modern telecommunications infrastructure or ensuring maximum benefits for users in terms of choice, price and quality of telecommunications services  
– hereinafter referred to as “detailed regulatory conditions”.

2. Within the framework of proceedings on the approval of detailed regulatory conditions the President of UKE may:

- 1) agree with a telecommunications undertaking on detailed regulatory conditions, including convening working meetings between representatives of the President of UKE and

representatives of a telecommunications undertaking authorised to make such agreements as well as social organizations if they were admitted to the proceedings as a party;

2) request a telecommunications undertaking to supplement its proposed detailed regulatory conditions or to modify them, within a specific time limit;

3) request a telecommunications undertaking to submit clarifications with regard to its proposed detailed regulatory conditions, within a specific time limit;

4) seek experts' or auditors' opinion with respect to proposed detailed regulatory conditions.

3. The President of UKE shall, by means of a decision, approve or refuse to approve of the detailed regulatory conditions within 90 days of the submission date for the request referred to in paragraph 1.

4. The President of UKE may approve of the detailed regulatory conditions included in the telecommunications undertaking's request if they comply with the provisions of law, regulatory obligations imposed on a telecommunications undertaking, the telecommunications market needs and may contribute to effective implementation of regulatory obligations imposed on a telecommunications undertaking, the development of equal and effective competition, development and use of modern telecommunications infrastructure or ensuring maximum benefits for users in terms of choice, price and quality of telecommunications services.

5. The decision on the approval of the detailed regulatory conditions may be issued with reservations on the conditions or time limits.

6. The decision on the approval of the detailed regulatory conditions shall be subject to the provisions on consultation proceedings.

**Article 44.** In exceptional circumstances, the President of UKE may, by means of a decision, impose on operators with significant market power other obligations with regard to telecommunications access than those referred to in Article 34, Articles 36-40 and Article 42.

**Article 44a.** 1. Having completed consultation proceedings on imposing obligations referred to in Article 44 other than those provided for in Article 44b (1) the President of UKE shall immediately ask the European Commission for approval to impose those obligations. The President of UKE shall attach to the request draft measures together with justification.

2. In the case of the Commission's positive response to the request referred to in paragraph 1, the President of UKE shall, by means of a decision, impose obligations referred to in Article 44 according to the request.

**Article 44b.** 1. Where previously imposed regulatory obligations with regard to telecommunications access, referred to in Article 34, Article 36-40 and Article 42, have failed to achieve effective competition in the wholesale market or in wholesale markets and there are important and persisting competition problems or market failures identified in this market or markets, the President of UKE may, following an analysis referred to in Article 21 (1), with respect to a wholesale market or wholesale markets in question, impose an obligation of functional separation on a vertically integrated telecommunications undertaking which consists in placing activities related to the provision of wholesale telecommunications access services in a separate independently operating organisational entity, hereinafter referred to as "a separate business entity" or in several separate business entities.

2. A separate business entity shall supply telecommunications access to other telecommunications undertakings, including to the telecommunications undertaking referred to in paragraph 1, and to other business entities within the parent company, on the same timescales, terms and conditions, including those relating to price and service levels, and by means of the same systems and processes.

3. Prior to imposing an obligation for functional separation on a telecommunications undertaking the President of UKE shall submit to the European Commission a request for approval of functional separation that includes:

- 1) results of an analysis referred to in Article 21 (1) with respect to a wholesale market or wholesale markets confirming that previously imposed regulatory obligations with regard to telecommunications access have failed to achieve effective competition in a wholesale market or in wholesale markets referred to in paragraph 1 and there are important and persisting competition problems or market failures identified in this market or markets;
- 2) a reasoned assessment that there is no or little prospect of effective and sustainable infrastructure-based competition in a wholesale market or wholesale markets referred to in paragraph 1 within a reasonable time-frame;
- 3) an analysis of the expected impact of imposing functional separation on the undertaking referred to in paragraph 1, including on the workforce of the separated business entity, on the activities of the President of UKE and on the telecommunications market, including impact assessment regarding incentives to invest in the telecommunications sector, as well as information on expected impact on competition in this market and potential consequential effects on consumers;
- 4) justification for applying functional separation as the most efficient remedy aimed at addressing competition problems or eliminating identified failures in a wholesale market or in wholesale markets;
- 5) the draft decision on functional separation including the following elements:
  - a) the nature and level of functional separation, specifying in particular the legal status of a separate business entity, taking into account the position of a telecommunications undertaking subject to the obligation of functional separation regarding that status, if such a position has been submitted by that undertaking within the framework of consultation proceedings,
  - b) an identification of the assets of the separate business entity, and the type of products or services to be supplied by that entity;
  - c) the governance arrangements for the separate business entity, including principles for developing appropriate incentives structure in that entity to ensure the independence of the staff employed by the separate business entity from the telecommunications undertaking referred to in paragraph 1, other entities of that telecommunications undertaking, dependent companies, dominating companies or related companies within the meaning of the Act of 15 September 2000 Code of commercial companies (Official Journal No. 94, item 1037, with subsequent amendments),
  - d) rules for implementing the obligation of functional separation, including a time schedule for the implementation of this obligation,
  - e) rules for ensuring transparency of operational procedures, in particular towards other stakeholders concerned,
  - f) a monitoring programme to ensure compliance with the obligation of functional separation, including the publication of an annual report by a telecommunications undertaking referred to in paragraph 1, or the obligation to carry out periodic audits by independent auditors.

4. In the case of the Commission's positive response to the request referred to in paragraph 3, the President of UKE shall, by means of a decision, impose the obligation of functional separation.

5. The justification to the decision imposing the obligation of functional separation, regardless of the requirements under the provisions of the Code of administrative procedure, should include evidence that the conditions referred to in paragraph 1 have been met, and that the imposition of this obligation is justified, including:

- 1) information about the results of an analysis referred to in Article 21 (1) with respect to the wholesale market or wholesale markets confirming that previously imposed regulatory

obligations with regard to telecommunications access have failed to achieve effective competition in a wholesale market or in wholesale markets referred to in paragraph 1 and that there are important and persisting competition problems or market failures identified in this market or markets;

2) a reasoned assessment that there is no or little prospect of effective and sustainable infrastructure-based competition in a wholesale market or wholesale markets referred to in paragraph 1 within a reasonable time-frame;

3) an analysis of the expected impact of imposing functional separation on the undertaking referred to in paragraph 1, including on the workforce of the separated business entity, on the activities of the President of UKE and on the telecommunications market, including impact assessment regarding incentives to invest in the telecommunications market, as well as information on expected impact on competition in this market and potential consequential effects on consumers;

4) justification for applying functional separation as the most efficient remedy aimed at addressing competition problems or eliminating identified failures in a wholesale market or in wholesale markets.

**Article 44c.** In the case of issuing a decision referred to in Article 44b (4), the President of UKE shall conduct a coordinated analysis of relevant markets related to an access network and shall impose, maintain, amend or withdraw other regulatory obligations.

**Article 44d.** A telecommunications undertaking on whom an obligation referred to in Article 44b (1) was imposed, may be subject to other telecommunications access regulatory obligations referred to in Article 34, Articles 36-40, Article 42 and Article 44, in respect of markets where it was found to have SMP.

**Article 44e.** The person or persons in charge of a separate business entity may neither simultaneously work or deliver other tasks on any other basis for a telecommunications undertaking referred to in Article 44b (1), or for an organisational entity of the telecommunications undertaking referred to in Article 44b (1) other than the separate business entity, or in a dependent, dominating or related company of that undertaking within the meaning of the Act of 15 September 2000 - Code of commercial companies nor hold any functions in their bodies or provide consultancy services to these entities.

**Article 44f.** 1. The provisions on the undertaking's branch shall apply to the separate business entity where it is not a separate legal person.

2. A telecommunications undertaking referred to in Article 44b (1) shall be obliged to choose the name of a separate business entity within the time limit specified in a decision referred to in Article 44b (4). The trade name should allow identification of this entity as a separate entity of the telecommunications undertaking referred to in Article 44b (1) and should be used by this entity in commercial turnover.

3. A separate business entity shall be a separate employer within the telecommunications undertaking referred to in Article 44b (1), whose rights and obligations of an employer shall be performed by a person or persons in charge of that separate business entity.

4. A person or persons in charge of a separate business entity shall be authorised to represent it in external relations under the principles of branch commercial representation.

**Article 44g.** 1. A vertically integrated telecommunications undertaking with significant market power, in order to ensure that all service providers providing their services to end users, including itself, have the possibility to offer equivalent services to end users, shall

inform the President of UKE of its intended transfer of local access network assets or a substantial part thereof to a separate legal entity under different ownership or to a newly established entity. The notification shall be made at least 6 months before the planned transfer of assets.

2. A telecommunications undertaking referred to in paragraph 1 shall immediately inform the President of UKE of any change in the intended transfer of local access network assets or a substantial part thereof to a separate legal entity under different ownership or to a newly established entity.

3. The President of UKE shall conduct a coordinated analysis of the relevant markets related to the access network within six months of receiving the notification referred to in paragraph 1 or 2, in order to identify the impact of activities referred to in paragraph 1 on these markets, and shall immediately inform the undertaking referred to in paragraph 1 of the completion of the analysis.

4. A telecommunications undertaking referred to in paragraph 1 shall immediately inform the President of UKE of the transfer of local access network assets or a substantial part thereof to a separate legal entity under different ownership or to a newly established entity.

5. The President of UKE, having received the notification referred to in paragraph 4, based on the results of an analysis referred to in paragraph 3, shall conduct proceedings referred to in Article 22 and shall impose, maintain, amend or withdraw the regulatory obligations.

6. A separate legal entity or a newly established entity referred to in paragraph 1 may be subject to telecommunications access regulatory obligations referred to in Article 34, Articles 36-40, Article 42 and Article 44, in respect of markets where it was found to have SMP.

**Article 45.** The President of UKE may, taking account of the adequacy of a given obligation to the identified problem, the proportionality and the objectives specified in Article 1 (2), and taking account of Article 1 (3), by means of a decision, impose on a telecommunications undertaking which controls access to end users regulatory obligations necessary to ensure that the end users of this telecommunications undertaking communicate with the users of another telecommunications undertaking, including the obligation of mutual network interconnection.

### **Chapter 3**

#### **Regulation of services in the retail market**

**Article 46.** 1. If, as a result of an analysis carried out according to Article 21, the President of UKE finds that:

- 1) a given retail market is not effectively competitive,
- 2) obligations referred to in Articles 34-40, Article 42, Article 44 and Article 45 would not lead to the achievement of the objectives referred to in Article 189 (2);
- 3) the execution of a subscriber's right referred to in Article 72 (1) would not lead to the achievement of the objective referred to in Article 1 (2) (4) and does not meet the objectives referred to in Article 189 (2)

— he/she shall impose on a telecommunications undertaking with significant market power in a given retail market at least one of the obligations referred to in paragraph 2.

2. The President of UKE, for the purpose of protecting an end user may, by means of a decision, impose on a telecommunications undertaking with significant market power in a given retail market the following obligations to refrain from:

- 1) setting excessive prices for services;
- 2) distorting market entry of other undertakings;
- 3) limiting competition by fixing prices below the costs of their provision;

- 4) applying preferential treatment to given end users, excluding those provided for in the Act;
  - 5) obliging an end user to use unnecessary services.
3. In the decision referred to in paragraph 2, the President of UKE may in particular:
- 1) specify maximum prices for services or
  - 2) specify the required range of prices for services established on the basis of prices applied in comparable markets of Member States or
  - 3) impose an obligation to:
    - a) run regulatory accounting in line with an instruction approved by the President of UKE, or
    - b) calculate the costs of services in line with a cost calculation description approved by the President of UKE, or
    - c) set prices on the basis of the cost of their provision, or
  - 4) impose an obligation to submit for approval tariffs or rules and regulations for the provision of services.
4. The President of UKE shall specify, in a decision referred to in paragraph 3 (3) (b), cost calculation methods for services provided in a given retail market which are to be applied by an operator on the basis of provisions of an ordinance referred to in Article 51.

**Article 47.** (deleted).

- Article 48.** 1. A telecommunications undertaking on which an obligation referred to in Article 46 (3) (4) has been imposed, shall submit to the President of UKE draft tariffs and draft rules and regulations for the provision of services together with their justification, at least 30 days prior to a planned date for the introduction of the tariffs or rules and regulations for the provision of services or of their modifications.
2. The President of UKE, by means of a decision, within 30 days of the date of submission of draft tariffs, rules and regulations for the provision of services or of their modifications, may raise an objection, if the draft tariffs or draft rules and regulations are deemed to contradict the decision referred to in Article 46 (2) or the provisions of this Act, and may oblige a telecommunications undertaking to submit the tariffs or the rules and regulations revised in the part referred to in the objection.
3. The President of UKE may request that an obliged telecommunications undertaking submits additional documentation or provides additional information. The time limit referred to in paragraph 2 shall be suspended until that time.
4. The tariffs and rules and regulations for the provision of services or their modifications subject to the objection of the President of UKE shall not enter into force.
5. The tariffs and the rules and regulations for the provision of services or their modifications shall be published on the UKE BIP website at the expense of a telecommunications undertaking.

## **Chapter 4**

### **Regulatory accounting and cost calculation**

- Article 49.** 1. The purpose of regulatory accounting shall be to separate and assign assets, liabilities, revenues and costs of a telecommunications undertaking to operations related to telecommunications access or operations related to retail services, as if each type of operation was performed by a different telecommunications undertaking, as well as to determine revenues and associated costs separately for each of the services subject to cost calculation.
2. Regulatory accounting shall be run in a manner which permits the identification of internal transfer flows between individual types of operation referred to in paragraph 1.

**Article 50.** 1. Regulatory accounting shall be run by a telecommunications undertaking on which this obligation was imposed under Article 38 or Article 46.

2. Cost calculation shall be run by a telecommunications undertaking on which this obligation was imposed under Article 39 or Article 46.

**Article 51.** The Minister competent for communications, in agreement with the Minister competent for public finance shall specify by means of an ordinance:

1) methods for assigning assets and liabilities, revenues and costs to operations or services referred to in Article 49 (1),

2) methods of cost calculation in relation to telecommunications access or retail services,

3) methods and time limits for an updated pricing of specific kinds of fixed assets, intangible assets and depreciation deductions from those assets,

4) the procedure and time limits for agreement and approval by the President of UKE of an instruction and cost calculation description prepared by a telecommunications undertaking,

5) the scope and time limits for the submission to the President of UKE of:

a) regulatory accounting statements, assuming the principle that data included in the statements is verifiable within the meaning of the Accounting Act of 29 September 1994,

b) the results of cost calculation

— in order to promote efficiency, sustainable competition and to ensure maximum benefit for end users, and taking account of the necessity to protect consumers and competitors from abuse by telecommunications undertakings on which the obligation to run regulatory accounting or cost calculation was imposed, of their market power, the necessity to stimulate the development of the telecommunications market and the necessity to enable the President of UKE inspections in relation to operations performed by those undertakings.

**Article 52.** A telecommunications undertaking shall store the documentation related to running the regulatory accounting or cost calculation in compliance with the provisions of chapter 8 of the Accounting Act of 29 September 1994.

**Article 53.** 1. The President of UKE shall specify on an annual basis, by means of a decision, weighted average cost of capital to be applied in cost calculation by the telecommunications undertaking on which he/she imposed a cost calculation obligation, taking account of documented costs of acquiring the capital, the undertaking's position in the capital market, typical risk related to employing the capital, in particular for new investment projects, and the costs of employing the capital in comparable markets.

2. The President of UKE shall, by means of a decision, approve an instruction and cost calculation description according to the procedure and within the time limits referred to in Article 51 point (4).

3. The President of UKE, in a decision referred to in paragraph 2, may introduce modifications to a draft instruction and cost calculation description submitted by a telecommunications undertaking for approval, in the event such changes are not introduced by a telecommunications undertaking at the request of the President of UKE according to the procedure and within the time limits referred to in Article 51 point (4).

4. The President of UKE may seek an opinion of independent chartered accountants or experts, in the event of doubts in relation to an instruction and cost calculation description prepared by a telecommunications undertaking and to the reliability and credibility of data included in regulatory accounting statements or cost calculation results.

5. Annual regulatory accounting statements and cost calculation results shall be subject to an audit, at the expense of a telecommunications undertaking, in order to verify their compliance with the provisions of law and an instruction and cost calculation description approved by the

President of UKE. This is to be carried out by a chartered accountant independent of a telecommunications undertaking within 6 months of the end of the financial year.

6. The President of UKE shall appoint a chartered accountant to conduct an audit referred to in paragraph 5.

7. An annual regulatory accounting statement, cost calculation results and an opinion of a chartered accountant on the audit referred to in paragraph 5 shall be published on the UKE BIP website within 8 months of the end of the financial year.

**Article 54.** 1. The President of UKE shall, by means of a decision, impose on a telecommunications undertaking obliged under Article 38 or Article 46 to run regulatory accounting, an obligation to publish on the UKE BIP website an approved instruction, so that the presentation of the methods for the separation and assignment of assets and liabilities, revenues and costs is ensured.

2. The President of UKE shall, by means of a decision, impose on a telecommunications undertaking obliged under Article 39 or Article 46 to run cost calculation, an obligation to publish on the UKE BIP website an approved cost calculation description so that the presentation of main cost groups and the methods of assigning them to specific types of services is ensured.

3. The President of UKE may, by means of a decision, impose on a telecommunications undertaking with significant market power an obligation to publish on the UKE BIP website the prices applied by this telecommunications undertaking.

4. The President of UKE, in his/her decisions referred to in paragraphs 1-3 and having observed the requirements related to the protection of business confidentiality, shall specify the scope in which an instruction or cost calculation description or prices applied by a telecommunications undertaking are published, in order to prevent the abuse, by telecommunications undertakings obliged under paragraphs 1-3, of their significant power in relation to prices, and in particular unjustified excessive or predatory pricing, a price squeeze towards their competitors through narrowing the margin between prices for telecommunications access and retail prices as well as the application of unjustified price advantages by telecommunications undertakings with significant market power.

**Article 55.** (deleted).

### **PART III**

#### **End user protection and universal service**

##### **Chapter 1**

##### **Provision of telecommunications services to end users**

**Article 56.** 1. Telecommunications services shall be provided on the basis of an agreement for the provision of telecommunications services.

2. An agreement for the provision of telecommunications services shall be concluded in a written or electronic form by means of a form made available on the service provider's website. The written or electronic form is not required in the case of an agreement for the provision of telecommunications services the conclusion of which is implied by the very performance of certain actions, including in particular the agreement for the provision of pre-paid services in the public telecommunications network, publicly available telephone services provided by means of a public pay phone or by dialling an access number to the network of a service provider.



3. An agreement for the provision of publicly available telecommunications services requiring a written or electronic form, subject to paragraph 5, should define in a clear, comprehensive and easily accessible form in particular:

- 1) the parties to the agreement, including the name, address and seat of a service provider;
- 2) the services provided, indicating the elements comprising the monthly rental fee;
- 3) waiting time for connection to the network or the start-up date for the provision of services;
- 4) the period for which the agreement is concluded, including the minimum period required to benefit from promotional terms and conditions;
- 5) tariff option, if there are different tariff options for provided services;
- 6) method of placing orders for tariff options and additional service options;
- 7) means of payment;
- 8) the settlement period;
- 9) the procedure and conditions for making amendments to the agreement and the conditions for its prolongation and termination;
- 10) any restrictions on the use of terminal equipment made available to the subscriber by the provider of telecommunications services, if imposed or mandated by the service provider.
- 11) data on the functionality of the service provided including information on:
  - a) whether or not calls to emergency numbers are being provided,
  - b) whether or not caller location information is being provided,
  - c) any limitations on the routing of calls to emergency numbers,
  - d) any limitations on access to or use of services and applications,
  - e) the procedures put in place by the service provider to measure and shape network traffic so as to avoid filling or overfilling a network link, together with information on how those procedures could impact on the quality of services provided,
  - f) the activities that the service provider is entitled to undertake in relation to the cases of breaches to security or integrity of the network and services;
- 12) data on the quality of service, in particular the minimum service quality levels offered, including the time for the initial connection and other quality of service parameters, if defined by the President of UKE under Article 63 (2a);
- 13) ways of informing the subscriber about exhaustion of its data transmission package in the case of the Internet access service provided over the public mobile telecommunications network and about the possibility to monitor the package usage level by the subscriber;
- 14) the scope of maintenance service and means of contacting the entities offering these services;
- 15) the scope of liability for non-performance or improper performance of an agreement, the level of compensation as well as the principles and time limits for its payment, in particular if contracted service quality levels are not met;
- 16) the principles, procedure and time limits for filing and considering complaints;
- 17) information on out-of-court dispute resolution mechanisms;
- 18) the method of obtaining information on up-to-date tariffs and the costs of maintenance services;
- 19) the principles of including subscriber's data in a directory in the case of agreements for the provision of voice services;
- 20) ways to provide information to the subscriber about any risks related to the service provided, including on the ways to protect security, privacy and personal data;
- 21) any charges due on termination of the contract, including the terms and conditions for returning telecommunications terminal equipment, indicating at whose cost this is to take place.

4. An agreement for the provision of connection to a public telecommunications network apart from the elements referred to in paragraph 3 should define the number assigned to a subscriber and, in the case of connection to a public fixed telecommunications network, also an address of a network termination point.

4a. In the case of a consumer an initial validity period as specified in an agreement referred to in paragraph 1 concluded with a specific service provider shall not exceed 24 months.

4b. The service provider shall ensure that the end user has the possibility to conclude an agreement for the provision of telecommunications services also for a period not longer than 12 months.

5. The data referred to in paragraph 3 point 6-8 and 10-21, based on an explicit provision of an agreement, may be included in the rules and regulations for the provision of publicly available telecommunications services.

6. A service provider may enable its subscriber as a party to an agreement concluded in a written or electronic form to modify the agreement terms and conditions referred to in paragraph 3 point 2, and points 4-7 by remote means of communications, in particular via a telephone or using electronic mail or fax. The service provider shall be, however, obliged to record the subscriber's statement made in the manner specified in the first sentence and to store it until the end of the validity period of an agreement under modified terms and conditions as well as to make available its content to the subscriber at its every request submitted in particular in the course of a complaint procedure. In the case of modifications to the agreement terms and conditions made by means of a telephone, the whole conversation should be recorded. At the same time, the service provider shall be obliged to confirm the statement on modification to agreement conditions as well as its scope and the time limit for effecting the modifications made by the subscriber, within the time limit agreed with the subscriber, but not later than within one month of a request for modifications. The subscriber shall be entitled to withdraw from modifications made to the agreement, without stating the reasons, by making a statement in writing within 10 days of the receipt of confirmation. In order to meet this time limit it is sufficient to send the statement before the time limit expires.

6a. The confirmation referred to in paragraph 6, shall be provided by the provider of publicly available telecommunications services electronically to an electronic mail address indicated for this purpose by the subscriber or by similar remote communications means. The confirmation should contain:

1) the text of a modification to an agreement made by remote communications means or if the text of a modification due to its volume makes it difficult for the subscriber to get familiar with it - a reference to the provider's website where the subscriber may read it;

2) information that the subscriber has made a statement on modification to the agreement terms and conditions as well as on its scope and the time limit for introducing these modifications.

6b. If it is not possible to deliver the confirmation referred to in paragraph 6 as specified under paragraph 6a or at the subscriber's request, the provider of publicly available telecommunications services shall deliver the confirmation in a written form.

7. The subscriber shall not be entitled to withdraw from modifications made to the agreement referred to in paragraph 6, if the service provider at the subscriber's consent, has started to provide services under modified conditions of the agreement.

8. In the absence of confirmation of the statement on modification to agreement conditions as well as its scope and the time limit for effecting the modifications referred to in paragraph 6, the time limit for the subscriber to withdraw from modifications made to the agreement shall be three months and counts from the day of making the statement on modification to agreement conditions. However, if the subscriber receives the confirmation after the time

limit has started to flow, the time limit shall be shortened to 10 days from receipt of this confirmation.

9. Article 60a shall not apply to modification of agreement conditions under the procedure referred to in paragraph 6.

**Article 57.** 1. A service provider may not make the conclusion of an agreement for the provision of publicly available telecommunications services, including connection to a public telecommunications network, to be conditional upon:

- 1) (deleted);
- 2) not concluding an agreement for the provision of publicly available telecommunications services, including connection to a public telecommunications network, with another service provider;
- 3) providing information or data other than specified in Article 161 (2), if an end user is a natural person.

2. A service provider may make the conclusion of an agreement for the provision of telecommunications services, including connection to a public telecommunications network, to be conditional upon:

- 1) providing documents confirming the ability to meet obligations resulting from an agreement towards a service provider by an end user;
- 2) a positive evaluation of an end user's payment credibility, resulting from the data in possession of a service provider or made available by a business information office under the procedure defined in the Act on the provision of business information and exchange of business data of 9 April 2010 (Journal of Laws No.81, item 530); a service provider shall inform an end user of any such reservations.

3. A service provider may refuse to conclude an agreement for connection to the network or for the provision of telecommunications services with an end user, or may conclude an agreement for the provision of publicly available telecommunications services, including connection to a public telecommunications network, under the terms that are less favourable to an end user, as a result of negative evaluation of payment credibility based on the information made available by a business information office referred to in paragraph 2 (2), in particular by requesting a user to secure any claims arising from this agreement.

4. The provisions of paragraphs 2 and 3 shall not apply to agreements for the provision of telecommunications services the conclusion of which is implied by the very performance of certain actions referred to in Article 56 (2).

5. The conditions of an agreement for the provision of publicly available telecommunications services, including connection to a public telecommunications network, may not render it impossible or difficult for a subscriber to exercise its right to change the provider of publicly available telecommunications services.

6. In the event of concluding an agreement for the provision of telecommunications services, including connection to a public telecommunications network, associated with an allowance granted to the subscriber, any claim resulting from unilateral termination of an agreement by the subscriber or a service provider due to the subscriber's fault prior to the termination date fixed in an agreement may not exceed the value of an allowance granted to the subscriber reduced by its proportional value for the period from concluding the agreement to its termination date. The claim shall not apply if the agreement is terminated by the consumer before the services are provided, unless telecommunications terminal equipment is subject to the allowance.

**Article 58.** (deleted).

**Article 59.** 1. A provider of publicly available telecommunications services that specifies in the rules and regulations for the provision of telecommunications services the data referred to in Article 56 (3) point 6-8 or 10-21 shall be obliged to announce these rules and regulations publicly by publishing them on its website and deliver to subscribers free of charge with an agreement for the provision of publicly available telecommunications services, including connection to a public telecommunications network, as well as at every request from a subscriber, in a written or electronic form.

2. A provider of publicly available telecommunications services to subscribers that are not parties to an agreement concluded in a written or electronic form shall be obliged to specify the scope and conditions for the performance of telecommunications services in the rules and regulations for the provision of publicly available telecommunications services and to announce them publicly.

3. A provider of publicly available telecommunications services shall submit the rules and regulations for the provision of telecommunications services to the President of UKE at every request within the time limit defined by him/her.

**Article 60.** The rules and regulations for the provision of publicly available telecommunications services not requiring an agreement to be concluded in a written or in electronic form by means of a form made available on the service provider's website should specify in particular:

- 1) the name, address and seat of a service provider;
- 2) the services provided, indicating the elements comprising the monthly rental fee;
- 3) standard agreement terms, including an indication of the minimum period of duration of an agreement, if specified;
- 4) means of payment;
- 5) any restrictions on the use of terminal equipment made available to the subscriber by the provider of telecommunications services, if imposed or mandated by the service provider;
- 6) data on the functionality of the service provided including information on:
  - a) whether or not calls to emergency numbers are being provided,
  - b) whether or not caller location information is being provided,
  - c) any limitations on the routing of calls to emergency numbers,
  - d) any limitations on access to or use of services and applications,
  - e) the procedures put in place by the service provider to measure and shape network traffic so as to avoid filling or overfilling a network link, together with information on how those procedures could impact on the quality of services provided,
  - f) the activities that the service provider is entitled to undertake in the case of breaches to security or integrity of the network and services;
- 7) data on the quality of service, in particular the minimum service quality levels offered, including the time for the initial connection and other quality of service parameters, if defined by the President of UKE under Article 63 (2a);
- 8) ways of informing the subscriber about exhaustion of its data transmission package in the case of the Internet access service provided over the public mobile telecommunications network and about the possibility to monitor the package usage level by the subscriber;
- 9) the scope of maintenance services and means of contacting the entities offering these services;
- 10) the scope of liability for non-performance or inadequate performance of the agreement, the amount of compensation as well as the manner and time limits for the payment thereof;
- 11) the principles, procedure and time limits for filing and considering complaints;
- 12) the method of obtaining information on up-to-date tariffs and the costs of maintenance services;

- 13) the principles of including subscriber's data in a directory in the case of agreements for the provision of voice services;
- 14) ways to provide information to the subscriber about any risks related to the service provided, including on the ways to protect security, privacy and personal data;
- 15) the type of activities that the service provider may undertake in the case of breaches to security or integrity of the network or services or risks and vulnerability to such risks;
- 16) recommended ways to secure the telecommunications terminal equipment by the subscriber.

**Article 60a.** 1. A provider of publicly available telecommunications services:

- 1) shall deliver to the subscriber being a party to an agreement concluded in a written or electronic form the contents of each proposed modification to the agreement terms and conditions, including those specified in the rules and regulations for the provision of publicly available telecommunications services, unless the subscriber made a request specified in paragraph 1b,
- 2) shall deliver to the subscriber who is not a party to an agreement concluded in a written or electronic form and who has made available his/her data referred to in paragraph 1a the contents of each proposed modification to the agreement terms and conditions specified in the rules and regulations for the provision of publicly available telecommunications services, unless the subscriber made a request specified in paragraph 1b, and
- 3) shall publicly announce the contents of each proposed modification to the agreement terms and conditions specified in the rules and regulations for the provision of publicly available telecommunications services
  - at least one month prior to the introduction of these modifications.

This period may be shorter if the publication of a legal act based on which it is necessary to introduce modifications takes place with a notice period shorter than one month before that act's entry into force or such a period results from a decision of the President of UKE. At the same time the subscriber should be informed of the right to terminate an agreement if he/she does not accept these modifications, while the time limit for exercising this right may not be shorter than by the date on which these modifications enter into force.

1a. A subscriber not being a party to an agreement concluded in writing in order to receive information and notifications in cases specified under the Act may provide the data:

- 1) in the case of a subscriber being a natural person:
  - a) a name and surname,
  - b) a personal number (PESEL), and in the case of a subscriber without a PESEL number – a name and number of a document confirming identity,
  - c) an address for correspondence;
- 2) in the case of a subscriber other than a natural person:
  - a) a name,
  - b) a REGON or NIP identification number, or a number in the entrepreneurs register or a business activities register or another relevant register maintained by a Member State,
  - c) a seat and address for correspondence.

1b. At the request of a subscriber who has made available his/her data referred to in paragraph 1a, the provider of publicly available telecommunications services shall provide the contents of each proposed modification to the conditions of an agreement, including those specified in the rules and regulations for the provision of publicly available telecommunications services, electronically to an electronic mail address indicated for this purpose by the subscriber or by similar remote communications means.

2. In the event of exercising the right to terminate an agreement referred to in paragraph 1, a provider of publicly available telecommunications services shall not be entitled to the

recovery of an allowance referred to in Article 57 (6), of which the subscriber should be also informed.

3. The provision of paragraph 2 shall not apply if the necessity to make modifications referred to in paragraph 1:

1) results directly from changes to the provisions of law or the elimination of forbidden contractual clauses;

2) results from a decision of the President of UKE referred to in Article 63 (2a).

3a. Where a proposed modification to the conditions of an agreement specified in the rules and regulations for the provision of publicly available telecommunications services results directly from modifications to the provisions of law, causes reduction in the prices for telecommunications services, addition of a new service or results from a decision of the President of UKE, the provider of publicly available telecommunications services shall announce publicly the text of proposed modifications at least one month before these modifications are introduced. This period may be shorter if the publication of a legal act based on which it is necessary to introduce modifications takes place with a notice period shorter than one month before that act's entry into force or such a period results from a decision of the President of UKE. At the same time the subscriber should be informed of the right to terminate an agreement if he/she does not accept these modifications, while the time limit for exercising this right may not be shorter than by the date on which these modifications enter into force.

4. A provider of publicly available telecommunications services shall inform in writing the subscribers who are parties to an agreement concluded in a written or electronic form about changes to the name, address or seat of that service provider without delay, unless the subscriber made a request to receive this information electronically to an electronic mail address indicated for this purpose by the subscriber or by similar remote communications means. The information about the above modifications is not a modification to the agreement terms and conditions.

5. A provider of publicly available telecommunications services to subscribers that are not parties to a written agreement shall publicly announce information about changes to the name, address or seat of that service provider without delay. The information about the above modifications is not a modification to the agreement terms and conditions specified in the rules and regulations for the provision of publicly available telecommunications services.

**Article 61.** 1. A provider of publicly available telecommunications services shall determine the prices for telecommunications services, unless otherwise provided for in this Act.

2. The prices of telecommunications services shall be determined based on transparent, objective and non-discriminating criteria.

3. A provider of publicly available telecommunications services shall specify, in the tariff pages for telecommunications services, hereinafter referred to as the "tariffs", the prices for connection to the network, for services, for maintenance and detailed information concerning applicable price options and discounts.

4. The tariffs shall be announced publicly by a provider of publicly available telecommunications services, as well as delivered to the subscriber who has made available his/her data referred to in Article 60a (1a), free of charge with the conditions of an agreement or with an agreement, if concluded by the parties in writing, for the provision of publicly available telecommunications services, including connection to a public telecommunications network, as well as at every request from a subscriber.

5. A provider of publicly available telecommunications services shall deliver to the subscriber who has made available his/her data referred to in Article 60a (1a), the contents of each modification to the tariffs at least one month prior to the introduction of these modifications

and shall announce them publicly, unless the subscriber made a request referred to in paragraph 5a. This period may be shorter if the publication of a legal act based on which it is necessary to introduce modifications takes place with a notice period shorter than one month before that act's entry into force or such a period results from a decision of the President of UKE. At the same time the subscriber should be informed of the right to terminate an agreement if he/she does not accept modifications to the tariffs, while the time limit for exercising this right may not be shorter than by the date on which these modifications enter into force.

5<sup>1</sup>. Where a proposed modification to the tariffs results directly from modifications to the provisions of law, causes reduction in the prices for telecommunications services, addition of a new service or results from a decision of the President of UKE, a provider of publicly available telecommunications services shall announce publicly the text of proposed modifications, at least one month before these modifications are introduced. This period may be shorter if the publication of a legal act based on which it is necessary to introduce modifications takes place with a notice period shorter than one month before that act's entry into force or such a period results from a decision of the President of UKE. At the same time the subscriber should be informed of the right to terminate an agreement if he/she does not accept these modifications, while the time limit for exercising this right may not be shorter than by the date on which these modifications enter into force.

5a. At the request of a subscriber who has made available his/her data referred to in Article 60a (1a), a provider of publicly available telecommunications services shall provide the contents of each proposed modification to the tariffs, electronically to an electronic mail address indicated for this purpose by the subscriber or by similar remote communications means.

6. In the event referred to in paragraph 5 and 5a subscribers should also be informed that in the event of exercising the right to terminate an agreement if they do not accept price increases, the provider of publicly available telecommunications services shall not be entitled to the recovery of an allowance referred to in Article 57 (6).

6a. The provision of paragraph 6 shall not apply if modifications referred to in paragraph 5 are necessary to be introduced as a result of changes to the law.

7. A provider of publicly available telecommunications services shall submit the tariffs to the President of UKE at every request, within the time limit defined by him/her, and upon each modification to the tariffs.

**Article 61a.** 1. If it is necessary to introduce modifications to the agreement terms and conditions, including those specified in the rules and regulations for the provision of publicly available telecommunications services or in the tariffs, exclusively because of changes to the rate of the VAT for telecommunications services, a provider of publicly available telecommunications services shall perform obligations referred to in Article 60a (1) and (1b) and in Article 61 (5) and (5a) by means of publishing information on:

- 1) modifications to the agreement terms and conditions, including those specified in the rules and regulations for the provision of publicly available telecommunications services, modifications to the tariffs, the time limit for their introduction together with indicating the place where modifications to the contents or agreement terms and conditions or the modified tariffs are available;
- 2) the right to terminate an agreement by the subscribers if they do not accept these modifications;
- 3) the necessity to return an allowance referred to in Article 57 (6) in the event the subscriber uses its right to terminate an agreement.

2. A provider of publicly available telecommunications services may announce publicly the information about modifications referred to in paragraph 1 with a notice period shorter than one month before the modifications enter into force, only if the publication of a legal act which is the basis for changes to the VAT rate for telecommunications services, takes place with a notice period shorter than one month before the rate enters into force.

**Article 62.** 1. The President of UKE, guided by the need to increase the availability of information concerning the rules for the provision of telecommunications services to end users, shall publish on the UKE BIP website information concerning basic rights and obligations of subscribers to publicly available telecommunications services, including information on:

- 1) universal service;
- 2) standard terms of agreements for the provision of publicly available telecommunications services, including connection to a public telecommunications network;
- 3) specification of which methods of using telecommunications services are contradictory to law or constitute distribution of harmful content, including cases of breaches to copyright and related laws, as well as indication of legal consequences of these acts;
- 4) methods to protect security, privacy and personal data when using publicly available telecommunications services;
- 5) the means for out-of-court resolution of disputes between consumers and telecommunications undertakings.

2. The President of UKE may request telecommunications undertakings to submit the data necessary to elaborate information referred to in paragraph 1, determining the form in which this data should be submitted. Article 6 (2) shall apply to the request.

3. The President of UKE may impose on telecommunications undertaking the obligation to publish on their Internet websites or at the customer service contact points the information referred to in paragraph 1.

**Article 62a.** 1. A telecommunications undertaking providing Internet access services and publishing data transmission speeds, in particular in information or promotional materials or in agreements for the provision of publicly available telecommunications services, shall inform the President of UKE at his/her request of the applied measurement method, based on which the speed indicators are measured.

2. The President of UKE may, within 14 days of submitting the information referred to in paragraph 1, file an objection to the measurement method applied by the telecommunications undertaking in a form of a decision, if the method in question fails to guarantee that end users are provided with transparent information on quality of service parameters or fails to ensure reliable measurements. Failure to file an objection by the President of UKE within 14 days of submitting the information shall be considered as agreement of the President of UKE to the measurement method applied by the telecommunications undertaking.

3. In a decision referred to in paragraph 2, the President of UKE shall impose on a telecommunications undertaking the obligation to apply a specific method based on which the undertaking measures the data transmission speed indicator, taking account of the need to guarantee that end users have transparent information on the quality of service parameters.

4. The President of UKE shall have the right to conduct tests in order to verify if the data transmission speed measured by means of the method to which the President of UKE filed no objection referred to in paragraph 2, or by means of a method specified in a decision of the President of UKE referred to in paragraph 2 or 6, is not lower than the data transmission speed referred to in paragraph 1.



5. If, as a result of the test referred to in paragraph 4, the President of UKE finds that the data transmission speed measured by means of the method to which the President of UKE filed no objection referred to in paragraph 2, or by means of a method specified in a decision of the President of UKE referred to in paragraph 2 or 6, is lower than the data transmission speed referred to in paragraph 1, the President of UKE shall impose, by means of a decision, the obligation to adjust the data transmission speed to the data transmission speed referred to in paragraph 1 on the telecommunications undertaking providing Internet access services, within 30 days of the decision's delivery date.

6. Where the information referred to in paragraph 1 is not submitted, the President of UKE shall issue a decision imposing on a telecommunications undertaking the obligation to apply a specific method based on which the undertaking measures the data transmission speed indicator, taking account of the need to guarantee that end users have transparent information on the quality of service parameters.

**Article 63.** 1. A provider of publicly available telecommunications services shall publish up-to-date information concerning the quality of these services.

2. The President of UKE may request the submission of information referred to in paragraph 1.

2a. In order to prevent the degradation of telecommunications service quality and the hindering or slowing down of traffic over telecommunications networks, the President of UKE, having consulted the European Commission, may set minimum quality of service requirements on a particular telecommunications undertaking by means of a decision, having regard to competition development and supporting users' capability of accessing information and its distribution or using applications and services of their choice. The President of UKE shall provide the European Commission and BEREC with a draft decision together with its justification prior to setting these requirements. The President of UKE shall take the utmost account of the opinion and recommendations of the European Commission when taking the decision.

3. The Minister competent for communications may specify, by means of an ordinance, the indicators concerning the quality of particular services as well as the content, form, time limits and manner of publishing information referred to in paragraph 1, guided by the need to ensure access to comprehensive and transparent information to end users.

**Article 63a.** A provider of publicly available telecommunications services providing Internet access services in the public mobile telecommunications network shall have the obligation to offer data transmission packages as well as to immediately inform the subscribers that the data transmission limit within the framework of a chosen package has been exceeded.

**Article 64.** 1. A provider of a publicly available telecommunications service including a telecommunications service with additional benefits, which may be delivered by an entity other than a telecommunications service provider, hereinafter called the "premium rate service", shall give together with the number of this service provided directly to subscribers the price for a call charging unit or the price for a call, if the service is charged per call, indicating gross prices and the name of an entity providing additional benefits.

2. An entity announcing publicly information on a premium rate service shall give together with the number of this service the price for a call charging unit or the price for a call, if the service is charged per call, indicating gross prices and the name of an entity providing additional benefits.

3. In the event where the information on the premium rate service referred to in paragraph 2 is publicly announced in a graphic manner:

- 1) the background may not make it difficult or impossible to read the price for a call charging unit or the price for a call, if the service is charged per call,
- 2) the font size specifying the price for a call charging unit or the price for a call, if the service is charged per call, may not be smaller than 60% of the font size specifying the service number and
- 3) the presentation time of the price for a call charging unit or the price for a call, if the service is charged per call, may not be shorter than the presentation time of the service number.
4. In the event where the premium rate service is provided repeatedly based on the subscriber's prior declaration of will, its provider shall be obliged to:
  - 1) provide information on the principles of using the service in a transparent and clear manner together with information referred to in paragraph 1, and
  - 2) enable the subscriber to effectively and immediately resign from the service at any time, in a simple manner and free of charge.
5. A provider of publicly available telecommunications services shall be obliged to provide subscribers as parties to the concluded agreement, with a price limit, for each settlement period, and in the absence thereof, for each calendar month, having exceeded which, the provider of publicly available telecommunications services shall be obliged to:
  - 1) immediately inform the subscriber of the fact that the limit has been exceeded;
  - 2) block, at the subscriber's request, the possibility to make calls to premium rate numbers and to receive calls from such numbers, unless they do not result in payment obligations on the subscriber's part.The provider shall be obliged to offer at least three price limits to its subscribers amounting to PLN 35, PLN 100 and PLN 200.
6. In the case of publicly available telephone services provided in public fixed-line telecommunications networks the obligation referred to in paragraph 5 point 1 shall be deemed complete, if the provider of publicly available telephone services has made at least three attempts at calling the subscriber within 24 hours of the moment when the limit was exceeded.
7. A provider of a premium rate service shall provide end users in a public telecommunications network, free of charge, with information each time, prior to charging any fees, on the price of a charging unit or the price for a call, if the service is charged per call. If the level of the charge changes during the phone call, the provider of a premium rate service shall inform the end user about this change 10 seconds before the rate change.
8. A premium rate service shall be provided under an agreement concluded as described in the second sentence of Article 56 (2).

**Article 64a.** The provider of publicly available telecommunications services shall be obliged, at the subscriber's request to:

- 1) block, free of charge, outgoing calls to premium rate numbers and incoming calls from such numbers,
  - 2) block, free of charge, outgoing calls to numbers of particular types of premium rate services and incoming calls from such numbers,
  - 3) provide the possibility for the subscriber to define a maximum price for a service measurement unit or for a call, if the service is charged per call, and to block, free of charge, outgoing calls to premium rate numbers the price of which exceeds a maximum price defined by the subscriber in its request, and incoming calls from such numbers
- unless such calls do not create payment obligations on the subscriber's part.

**Article 65.** 1. A provider of additional benefits referred to in Article 64 (1) shall submit to the President of UKE at least 7 days before it starts to provide this service, information with regard to:

- 1) its name (company name), address and seat;
- 2) name, type and the scope of the premium rate service provided;
- 3) the number or numbers used to provide premium rate services;
- 4) the start-up date for the provision of premium rate services.

2. The President of UKE shall keep a public register of numbers used to provide premium rates services containing information referred to in paragraph 1. The register shall also list the date of submitting information to the President of UKE.

3. The President of UKE shall publish the register referred to in paragraph 2 on the UKE BIP website.

**Article 66.** 1. A provider of publicly available telephone services in a fixed-line network shall make available to its subscribers, at a cost-oriented price, an up-to-date directory of subscribers with assigned numbers within a numbering area in which the subscriber's network termination point is based, at least once every 2 years.

2. A provider of publicly available telephone services shall provide its subscribers with a telephone directory enquiry service, including at least its subscribers who have made available the data referred to in Article 60a (1a).

**Article 67.** 1. A provider of publicly available telephone services shall make available the necessary data to other telecommunications undertakings which keep directories or provide a telephone directory enquiry service, including a nationwide directory as well as a comprehensive directory enquiry service comprising all subscribers of publicly available telephone services in the territory of the Republic of Poland, hereinafter called the "nationwide telephone directory enquiry service".

2. The data shall be made available under an agreement which is governed by the provisions of Articles 27-31 respectively. The agreement shall in particular specify the form of making the data available.

3. The provisions of Articles 161 and 169 shall respectively apply to a telephone directory enquiry service and to the preparation of a directory as well as to the related process of making the data available.

**Article 68.** A provider of publicly available telephone services shall ensure that end users, including end users using public pay phones, are given the possibility to connect with a service provider's consultant, including in order to obtain information on alternative tariff options, if these are available.

**Article 69.** A subscriber to a publicly available telephone service may request the change of an assigned number, if he/she proves that using an assigned number causes nuisance.

**Article 70.** In the event of a change in the place of residence, seat or place of activity, a subscriber being a party to an agreement concluded in a written or electronic form with a service provider which provides connection to a public telecommunications network of an operator and using an assigned number from the national numbering plan may request the porting of an assigned number within an existing network of the same operator in the area:

- 1) with the same geographic area code – for geographic numbers;
- 2) the entire country – for non-geographic numbers;

**Article 71.** 1. A subscriber being a party to an agreement where a number from the national numbering plan is assigned to that subscriber may request, when changing service providers, to port the assigned number to an existing network of an operator in:

- 1) a geographic area – for geographic numbers;
- 2) the entire country – for non-geographic numbers.

1a. (deleted).

2. The provision of paragraph 1 shall not apply to porting numbers between fixed and mobile public telecommunications networks.

2a. Exchange of information between service providers with respect to handling number portability requests shall be conducted electronically via the system referred to in Article 78 (4).

3. A subscriber shall not be charged any fees for porting an assigned number.

4. The President of UKE shall maintain a database of ported numbers referred to in paragraph 1. The database shall be part of the system referred to in Article 78 (4).

5. An operator of a public telecommunications network with a numbering assignment from the national numbering plan as well as an operator to whom numbering was made available based on an agreement referred to in Article 128 shall be obliged to connect this network directly or via a public telecommunications network of another operator with the database referred to in paragraph 4. An operator of a public telecommunications network with a numbering assignment from the national numbering plan as well as an operator to whom numbering was made available based on an agreement referred to in Article 128 shall be obliged to systematically update the database referred to in paragraph 4.

6. The President of UKE, based on data included in the database referred to in paragraph 4, may enable that it is possible, on the UKE website, to identify the provider of services for a particular number in a public telecommunications network.

**Article 71a.** A subscriber referred to in Article 71, when requesting to port an assigned number may terminate an agreement with the existing service provider without the observance of terms of notice specified in the terminated agreement. In such a case the subscriber shall be obliged to pay the charge to the existing service provider in the amount not exceeding subscription fee for a notice period, however not higher than the subscription fee for one settlement period increased by a claim linked to an allowance granted to the subscriber calculated in proportion to the time that remains to agreement termination.

**Article 71b.** 1. The porting of a number referred to in Article 71 shall take place not later than within 1 working day of the date indicated in an agreement for the provision of publicly available telecommunications services with number portability as the start-up date for the provision of services by a new service provider.

2. Where the time limit referred to in paragraph 1 is not met, the subscriber shall be entitled to a single compensation from the existing service provider for each day of delay in the amount of 1/4 of total monthly fees calculated based on bills for the last three settlement periods, and for pre-paid subscribers in the amount of 1/4 of the total value of top-ups for the last three months, unless it was not possible to port the number due to reasons on the part of a system referred to in Article 78 (4). If delay in porting the number was caused by reasons not on the part of the existing service provider, it shall be entitled to recover the compensation paid in full or in part from the entity which was responsible for delay.

3. In the case the number was ported without the subscriber's consent, the subscriber shall be entitled to a single compensation from the new service provider for each day from the number activation in a new network in the amount of 1/2 of average monthly charge calculated based

on bills for the last three settlement periods, and for pre-paid subscribers in the amount of 1/2 of the total value of top-ups for the last three months.

4. The amount of compensation referred to in paragraph 2 and 3 shall be calculated based on the number of days that elapse until the day of:

- 1) porting the number in the case referred to in paragraph 2;
- 2) activation of the number in the network of an existing service provider or obtaining the subscriber's consent to activate the number in the network of a new service provider in the case referred to in paragraph 3.

**Article 72.** 1. A subscriber to a publicly available telephone service being a party to an agreement with a service provider which provides connection to a public fixed telecommunications network of an operator with significant market power may choose any provider of publicly available telephone services whose services are available in interconnected networks.

2. No claim may be raised against a subscriber for choosing a provider of publicly available telephone services referred to in paragraph 1.

3. Guided by the subscribers' needs with respect to the choice of a service provider, the President of UKE, having completed an analysis of the market for services provided in a public mobile telecommunications network under Article 21, may, by means of a decision referred to in Article 24, impose on a designated operator with significant market power an obligation to exercise the right referred to in paragraph 1 in favour of subscribers connected to its network.

**Article 73.** The Minister competent for communications shall specify, by means of an ordinance, the terms under which subscribers may use their rights referred to in Articles 69-72, taking account of the availability of publicly available telephone services, technical capabilities of public telecommunications networks and existing numbering resources.

**Article 74.** 1. A provider of telecommunications services being a party to an agreement where a number from the national numbering plan for public telecommunications networks is assigned to the subscriber and an operator who makes it possible to receive calls by means of that number shall ensure that the subscriber has the possibility to exercise its rights referred to in Articles 69-72, consisting in the creation of adequate technical conditions or the conclusion of an agreement referred to in Article 31 or in Article 128, and if such possibilities exist – shall ensure their application.

2. At the request of a provider or an operator referred to in paragraph 1, the President of UKE may, by means of a decision, suspend for a specified time limit the exercise or limit the scope of exercising given rights referred to in Articles 69-72, where technical capabilities of the requesting party's network do not allow for the exercise of the right in full or in part, and specify the schedule for adjustment of this network in order to exercise an obligation referred to in the request.

3. The President of UKE may impose a penalty referred to in Article 209 (1) point 15-17 on a provider and on an operator, referred to in paragraph 1, if they:

- 1) do not ensure the possibility to exercise subscriber rights, referred to in paragraph 1;
- 2) do not exercise subscriber rights when this is possible;
- 3) exercise subscriber rights not consistently with the provisions of the Act or the ordinance referred to in Article 73.

**Article 75.** An operator of a public telecommunications network in which publicly available telephone services are provided shall ensure that end users have the possibility of multi-frequency tone dialling (DTMF).

**Article 76.** An operator of a public telecommunications network in which publicly available telephone services are provided shall ensure the transfer of data and signals in order to facilitate the offering of calling line identification presentation facilities and the multi-frequency tone dialling (DTMF), referred to in Article 75 and Article 171 (1), between the networks of operators in the Member States.

**Article 77.** 1. A provider of publicly available telephone services shall provide:

- 1) its end users, including persons using public pay-phones, with calls to emergency numbers free of charge;
- 2) the routing of:
  - a) telephone calls,
  - b) *short text messages (sms)*
    - for calls to 112, 997, 998, 999 emergency numbers to a provincial emergency response centre appropriate for a given area or to an emergency response centre and for calls to other emergency numbers to statutory emergency services appropriate for a given area.
2. The provision of paragraph 1 point 2b shall not apply to services provided in the public fixed telecommunications network.
3. The provision of paragraph 1 point 2b shall apply provided that an end user under the terms and conditions of a valid agreement for the provision of telecommunications services is entitled to use the services with respect to sending short messages (sms).

**Article 78.** 1. An operator of a public telecommunications network shall make available to the President of UKE information with regard to the location of a network termination point from which the call to an emergency number originates:

- 1) in real time – in the case of an operator of a public mobile telecommunications network,
- 2) on an input basis – in the case of an operator of a public fixed telecommunications network
  - in order to make this data available, via the system referred to in paragraph 4, to a provincial emergency response centre relevant for a given area, an emergency response centre or to statutory emergency services relevant for a given area, as appropriate.
2. A provider of publicly available telephone services in order to ensure functionality of the system referred to in paragraph 4 shall be obliged to submit to the President of UKE, free of charge:
  - 1) in the case of a consumer, the data referred to in Article 161 (2) point 4 to 6 and Article 169 (1);
  - 2) in the case of a subscriber who is not a consumer, the subscriber's number and the seat or place of conducting business, the company or the name and organisational form of that subscriber and for a public fixed telecommunications network - also the city and the street where the network termination point is made available to the subscriber
    - if the subscriber has made this data available.
3. Information on the location of a network termination point shall mean:
  - 1) for a public fixed telecommunications network – detailed address of a network termination point installation;
  - 2) for a public mobile telecommunications network – geographic location of publicly available telecommunications services user's terminal.

4. Information and data referred to in paragraph 1 and 2 should be submitted to the system in which it is stored and made available free of charge to:

1) central point in the system of emergency response centres – for calls to the “112” emergency number and to emergency numbers for the Police, State Fire Brigade and the ambulance, unless the statutory emergency service using a specific emergency number has its own central point capable of cooperating with the system or

2) other statutory emergency services than listed in point 1 – for calls to other emergency numbers.

5. A provider of publicly available telecommunications services shall submit, in order to ensure functionality of the system referred to in paragraph 4, up-to-date data referred to in paragraph 2, as soon as possible, however not later than within 24 hours of the change thereto, and where no change has taken place, at least once a month.

6. The President of UKE shall manage the system referred to in paragraph 4 and shall be authorised to process the data and information collected by the system for the purposes related to ensuring the system functionality.

6a. The President of UKE may specify, by means of a decision for a particular operator, detailed requirements concerning the accuracy and reliability of a network termination point location for public mobile telecommunications networks, taking account of technical capabilities and prospects for network development of a particular operator as well as the need to precisely locate the network termination point in order to provide effective help by statutory emergency services. The decision shall also specify the schedule to adapt the network to the requirements specified in the decision with respect to accuracy and reliability of the network termination point location.

7. The Council of Ministers shall specify, by means of an ordinance, the organisation and functioning of the system referred to in paragraph 4 as well as the conditions for storing and submitting information and data to the system from telecommunications undertakings and for making it available as appropriate to provincial emergency response centres, emergency response centres and the units of statutory emergency services appropriate for a given area, as well as the manner of exchanging information between service providers with respect to handling number portability requests, taking account of the system efficiency, the need to support the handling of the number portability process and efficiency of assistance provided by these services as well as ensuring continued provision of telecommunications services, telecommunications networks or provision of associated services by a telecommunications undertaking.

7a. The minister competent for public administration shall specify, by means of an ordinance, the organisation and functioning of the central point in the system of emergency response centres and central points of the services referred to in paragraph 4 point 1, having regard to ensuring efficient distribution of information and data by the system referred to in paragraph 4 to emergency response centres appropriate for a given area, provincial emergency response centres and the units of statutory emergency services.

8. The submission of data referred to in paragraph 2 shall not require the subscriber's consent.

**Article 79.** 1. An operator of a public telecommunications network in which publicly available telephone services are provided, shall ensure that its network end users and end users in other Member States, where technically and economically feasible, are able to:

1) access and use services using non-geographic numbers within the European Union and

2) access all numbers provided in the European Union, regardless of the technology and devices used by the operator, including those in the national numbering plans, those from the European Telephony Numbering Space, hereinafter referred to as "ETNS", and Universal International Freephone Numbers (UIFN).

2. The provision of paragraph 1 shall not apply to cases in which the called subscriber has limited incoming calls from end users located in particular geographic areas.

3. The President of UKE, at the request of an operator of a public telecommunications network in which publicly available telephone services are provided, may, by means of a decision, suspend the execution or limit the scope of execution of an obligation referred to in paragraph 1, in the event of technical or economic reasons which prevent the requesting party from executing this obligation in full or in part. If the execution of an obligation was suspended for a specific period of time, the President of UKE shall specify the schedule for the requesting party's network adaptation to the execution of an obligation included in the request.

**Article 79a.** A provider of publicly available telephone services allowing international calls shall handle calls incoming to and outgoing from the ETNS, according to the rates similar to the rates applied for calls to other Member States and from those states.

**Article 79b.** The President of UKE may, where this is justified by reasons of end users' protection against fraud in the telecommunications network, by means of a decision, require the telecommunications undertaking to block access to numbers or services and impose the obligation to withhold revenues for calls or services provided after the decision was issued.

**Article 79c.** 1. A provider of publicly available telephone services shall ensure, where technically feasible, that its disabled end users have access to telephone services of that provider equivalent to access to telephone services enjoyed by the majority of end users.

2. The President of UKE shall publish on the UKE BIP website information on terminal equipment available on the market that is adapted to the needs of disabled end users.

3. The Minister competent for communications shall specify, by ordinance, detailed requirements related to the provision of facilities for the disabled by the providers of publicly available telecommunications services, taking account of the need to ensure that the disabled end users have access to telephone services equivalent to that enjoyed by the majority of end users.

**Article 80.** 1. A provider of publicly available telecommunications services shall deliver to its subscribers free of charge with each invoice, a basic billing that includes information about paid calls made together with the number of charging units corresponding to the value of calls made by subscribers, provided for each type of call.

1a. In the case of a pre-paid service provided in the public mobile telecommunications network, for a subscriber who has an assigned number and has made available his/her data referred to in Article 60a (1a), a basic billing of telecommunications services shall be delivered at his/her request and includes only the services made following the submission of a request by that subscriber. The first billing shall be delivered to the subscriber within 14 days of the submission of a request, and each subsequent billing by the 10th day of a calendar month. The delivery of a billing may be subject to a charge specified in the tariffs.

2. A provider of publicly available telecommunications services shall deliver at the request of a subscriber with an assigned number an itemised billing which may be subject to a charge specified in the tariffs.

3. An itemised billing should include information with regard to the paid calls made, including for each call: the called number, the date and time when the call was originated, call duration and the fee charged for this call, indicating gross and net prices.

4. A provider of publicly available telecommunications services shall deliver an itemised billing starting from the current settlement period or a month in which the subscriber



submitted a written request, until the end of the settlement period or the month in which the date agreed with the subscriber for cessation of the billing delivery expires.

5. The billing referred to in paragraph 4 shall be delivered by a provider of publicly available telecommunications services:

1) in the case of a subscriber being a party to a written agreement - with an invoice for the settlement period relevant to the billing,

2) in the case of a pre-paid service provided in a public mobile telecommunications network to a subscriber who has an assigned number and has made available its data referred to in Article 60a (1a) - the first billing shall be delivered to the subscriber within 14 days of the day of submission of a request, and each subsequent billing by the 10th day of a calendar month.

6. A provider of publicly available telecommunications services shall deliver, at a subscriber's request, an itemised billing including:

1) in the case of a subscriber being a party to a written agreement with the provider - settlement periods predating the settlement period for which the subscriber requests this service by not more than 12 months.

2) in the case of a pre-paid service provided in a public telecommunications network to a subscriber who has made available its data referred to in Article 60a (1a) – the period not longer than 12 months predating the date of submitting a request by the subscriber.

7. In the case referred to in paragraph 6, an itemised billing shall be delivered within 14 days of the day on which the subscriber submitted a request.

## **Chapter 2**

### **Provision of universal service**

**Article 81.** 1. Universal service shall mean a set of telecommunications services, including facilities for the disabled, provided in any technology, preserving good quality and at a reasonable price, which should be available in the territory of the Republic of Poland.

2. A designated undertakings shall mean an undertaking which was designated under a decision referred to in Article 82 (4) or in Article 83.

3. The set of telecommunications services referred to in paragraph 1 shall include the following services:

1) connection of a network termination point at a fixed location, capable of supporting voice, facsimile and data communications, including functional Internet access at rates supporting the use of common applications to handle current daily life matters, in particular using electronic mail or applications that support payments;

2) maintaining the subscriber line with a network termination point referred to in point 1) ready for providing national and international telephone calls;

3) national and international telephone calls;

4) nationwide directory enquiry services, available also to the users of public payphones or other points of access capable of voice communications;

5) nationwide directories;

6) the provision of telephone services by means of public payphones or other points of access capable of voice communications.

4. (deleted).

5. In the case of:

1) public schools,

2) non-public schools with the rights of public schools, where obligatory school attendance or obligatory study is delivered,

3) teacher training institutes,

- 4) public life-long education centres, practical education centres, youth education centres, youth social therapy centres, special school and upbringing centres, special educational centres as well as psychological and pedagogical clinics,
- 5) public in-service teacher training centres and public pedagogical libraries,
- 6) public libraries,
- 7) higher schools,

- hereinafter called “entitled units”- an undertaking designated, under Article 82 (4) or Article 83, to provide the service referred to in paragraph 3 point 1 shall also provide network connection in order to ensure broadband Internet access, taking account of Article 100.

6. The Minister competent for communications shall specify, by means of an ordinance, the required line capacity for broadband Internet access for entitled units, having regard to increasing the availability of telecommunications services in the territory of the Republic of Poland and the need to build digital competence.

**Article 81a.** 1. The President of UKE shall assess the availability, quality and price affordability of services referred to in Article 81 (3).

2. The results of an assessment referred to in paragraph 1 shall be published on the UKE BIP website in order to be consulted with interested parties, in particular with the end users, consumers and telecommunications undertakings. Article 16 (2) shall apply to consultations.

**Article 82.** 1. If the results of an assessment and consultations referred to in Article 81a show that any service of the services referred to in Article 81 (3) is not available or provided with good quality and at an affordable price, the President of UKE shall announce on the UKE BIP website a competition for an undertaking designated to provide this service in the area indicated by the President UKE.

2. The President of UKE shall set the conditions of the competition, guided by the level of telecommunications services development, end users' needs as well as the need to minimise distortions or restrictions of competition in a given area with respect to the service which is subject to competition.

3. A competition announcement shall specify:

- 1) the service the provision of which is subject to competition as well as general requirements for its provision;
- 2) the area in which the service referred to in point 1 will be provided;
- 3) whether the decision referred to in paragraph 4 shall impose obligations referred to in Article 91;
- 4) other required information referred to in the ordinance issued under paragraph 5.

4. The President of UKE, by means of a decision, shall designate a telecommunications undertaking which has offered the lowest forecast net cost of providing this service to provide the service subject to competition, taking account of that undertaking's economic and technical capability to provide the service in question.

5. The Minister competent for communications shall specify, by means of an ordinance, the required scope of a competition announcement, the scope of an offer for the provision of services comprising universal service and the required documentation, as well as the procedure for a competition concerning the appointment of a designated undertaking, having regard to the need to ensure transparency and objectivity of proceedings.

**Article 83.** In the case there are no offers fulfilling the conditions of a competition for the provision of universal service or particular services comprising universal service, the President of UKE shall, by means of a decision, designate to provide the service subject to competition, a telecommunications undertaking providing that service, taking account of that

undertaking's economic and technical capability to provide the service in a given area, the need to promote equal and effective competition in the provision of telecommunications services and ensuring availability of these services.

**Article 83a.** The President of UKE shall inform the European Commission of the designation of a telecommunications undertaking to provide the services referred to in Article 81 (3), and on each imposition, withdrawal, maintenance or amendment of regulatory obligations with respect to that undertaking.

**Article 84.** The President of UKE shall prepare a list of designated undertakings and publish it on the UKE BIP website, identifying the scope of services provided by these undertakings and the area in which they have an obligation to provide these services.

**Article 85.** 1. In the decisions referred to in Article 82 (4) and Article 83, the President of UKE shall specify in particular:

- 1) the service referred to in Article 81 (3) which shall be provided by a designated undertaking and the requirements on the provision of that service, taking account of the provisions of the European Union on quality of service;
- 2) the area in which the service referred to in point 1 will be provided;
- 3) the start-up date for the provision of the service referred to in point 1;
- 4) duration of providing the service referred to in point 1;
- 5) obligations of a designated undertaking referring to the scope, time limit and place of publication of information on the provision of the service referred to in point 1.

1a. In a decision referred to in Article 82 (4) the President of UKE shall specify the forecast net cost of providing the service subject to competition offered by a designated undertaking.

2. The decision referred to in paragraph 1 shall be subject to the provisions on consultation proceedings.

**Article 86.** An undertaking designated to provide the service referred to in Article 81 (3) may not refuse to conclude an agreement to provide that service, where an end user meets the conditions resulting from the rules and regulations for the provision of that service. An undertaking designated to provide the service referred to in Article 81 (3) point 1 may not refuse to conclude an agreement to provide the service referred to in Article 81 (5).

**Article 87.** A designated undertaking shall conclude, within 30 days of the date of submitting a request, an agreement referred to in Article 86, where it shall specify in particular the service provision start-up date.

**Article 88.** The President of UKE, by means of a decision, shall determine for each of the undertakings designated to provide a service comprising universal service, which consists in the provision of a telephone service via public pay phones or other points of access capable of voice communications, the minimum number of public pay phones or other points of access capable of voice communications, including those adapted for use by people with disabilities, which should be available in the area where a designated undertaking is to provide that service, taking account of the development of telephony and justified needs of the inhabitants of this area.

**Article 89.** A designated undertaking shall provide access for persons with disabilities to the provided universal service by offering:

- 1) terminal equipment adapted for use by persons with disabilities, where the use of such equipment is necessary for ensuring access to universal service;
- 2) facilities that facilitate the use of universal service by persons with disabilities.

**Article 90.** (deleted).

**Article 91.** 1. (deleted).

2. The President of UKE, guided by national circumstances, may in the decisions referred to in Article 82 (4) and Article 83, impose on a designated undertaking the obligation to:

- 1) apply uniform tariffs for the service that the undertaking was designated to provide in the area of its provision or
- 2) apply maximum prices specified by the President of UKE for calls in the case of the service referred to in Article 81 (3) point 4 and 6 or
- 3) provide special tariff options.

3. An undertaking with the obligation referred to in paragraph 2 point (3) shall offer special tariff options to be provided under different terms and conditions than normal commercial offerings in order to ensure that consumers with low income and with special social needs have access to and use publicly available services.

4. In the case of choosing a special tariff option by the consumer, a designated undertaking may require the submission of documents that prove low income or special social needs of the consumer.

**Article 91a.** 1. A designated undertaking shall submit to the President of UKE:

- 1) draft tariffs with respect to special and basic tariff options,
- 2) draft rules and regulations for the provision of universal service or particular services comprising universal service or their modifications, together with a justification, at least 30 days prior to their planned implementation.

2. The provision of paragraph 1 shall not apply if the draft referred to in paragraph 1 or modifications thereof under Article 48 (1) are submitted to the President of UKE.

3. The President of UKE may, by means of a decision, within 30 days of the date of submission of a draft referred to in paragraph 1 or of its modification, raise an objection to the draft or its part, if this draft or its modification is contradictory to a decision referred to in Article 82 (4) or Article 83.

4. In a decision referred to in paragraph 3, the President of UKE may oblige a designated undertaking to submit a corrected draft or a modification referred to in paragraph 1 within 30 days of the date of decision delivery.

5. The President of UKE may require a designated undertaking to provide additional documents or information. The flow of the period for raising an objection referred to in paragraph 3 shall be suspended starting from the day when a request is sent by the President of UKE to the date when documents or information is provided to UKE.

6. The draft referred to in paragraph 1 or its modifications shall not enter into force within the scope covered by the objection of the President of UKE.

7. Tariffs involving special and basic tariff options as well as the rules and regulations for the provision of universal service or particular services comprising universal service or their modifications shall be published on the UKE BIP website.

**Article 92.** 1. A designated undertaking shall submit to the President of UKE the tariffs and rules and regulations for the provision of the service it was obliged to provide within 2 weeks of their provisions coming into force and upon each occasion involving modifications thereof.

2. The President of UKE shall publish the tariffs and rules and regulations referred to in paragraph 1 on the UKE BIP website.
3. The provision of paragraph 1 shall not apply if the draft tariffs and the rules and regulation of service provision or modifications thereof are submitted to the President of UKE under Article 48 (1).

**Article 93.** 1. A designated undertaking providing additional facilities and services in relation to the service it was obliged to provide, or the service referred to in Article 81 (5) shall determine the conditions for the use of these facilities and services in such a manner that the subscriber is not obliged to pay for additional facilities or services which are not necessary for the provision of the requested service.

2. A designated undertaking shall allow payment in instalments for connection of a network termination point referred to in Article 81 (3) point (1).

3. A designated undertaking shall ensure that subscribers have the possibility to bar outgoing calls to defined types of numbers or services free of charge.

4. A designated undertaking shall block free of charge outgoing calls above a specific value within the settlement period, if that value is indicated in the agreement for the provision of telecommunications services and the subscriber has not secured claims resulting from that agreement.

4a. A designated undertaking shall ensure that subscribers have the possibility to use services within the limits of advance payment or within the limits of an upper limit for the invoice amount defined by the subscriber.

5. A designated undertaking shall deliver, at a subscriber's request, a free of charge itemised billing of services referred to in Article 81 (3) it was obliged to provide, in a manner which prevents direct access by third parties to included information in order to enable the subscriber to verify and control payments resultant from the use of these services.

**Article 94.** (deleted).

**Article 94a.** Where a designated undertaking intends to transfer its local access network assets or substantial part thereof to a separate legal entity under different ownership, it shall inform the President of UKE in order for him/her to undertake an examination of the impact of this transaction on ensuring and provision of services referred to in Article 81 (3) point (1) and (3) as well as to impose, amend or withdraw regulatory obligations referred to in Article 46 (2). The notification shall be made at least 6 months before the planned transfer of assets.

**Article 95.** 1. A designated undertaking shall be entitled to a subsidy to the cost of the provided services that the undertaking was obliged to provide, hereinafter called the "subsidy", if these services are unprofitable.

2. A subsidy shall be determined by the President of UKE in the amount of the net cost for the provision of a service that the undertaking was obliged to provide. The net cost of providing that service shall refer to only those costs which wouldn't be incurred by a designated undertaking, if it didn't have an obligation to provide that service.

2a. Where an undertaking is designated by means of a decision referred to in Article 82 (4), the subsidy may not be higher than the forecast net cost of the service that the undertaking was designated to provide as offered in the competition.

3. The calculation of the net cost referred to in paragraph 2, depending on the service that an undertaking was designated to provide, should take account of the following:

- 1) costs directly related to universal service provision;
- 2) revenues from universal service provision;

- 3) indirect benefits related to universal service provision.
4. The Minister competent for communications shall specify, by means of an ordinance, the manner of calculating the net cost of the service referred to in Article 81 (3), guided by the provisions currently in force in the European Union.

**Article 96.** 1. A designated undertaking may submit a request for the subsidy within 6 months of the end of a calendar year in which, according to this undertaking, a net cost was present. The President of UKE shall publish, without delay, on the UKE BIP website the information that a request for subsidy was submitted by a designated undertaking, subject to paragraph 2.

2. A designated undertaking shall submit to the President of UKE the calculated net cost amount as well as receipts and other documents containing data or information used as the basis for calculating the net cost. The President of UKE shall appoint an auditor to analyse this documentation.

3. The President of UKE, within 60 days of the request's submission, shall verify the net cost and, depending on the outcome of this verification, shall grant, by means of a decision, a specified amount of the subsidy, or shall refuse to grant it.

4. The President of UKE shall refuse to grant the subsidy in the event of concluding that the verified net cost is not a justified burden for a designated undertaking.

**Article 97.** Telecommunications undertakings which have revenue from telecommunications activities higher than 4 million PLN in the calendar year for which the subsidy is due shall contribute to the subsidy.

**Article 98.** 1. The President of UKE shall commence proceedings aimed at determining telecommunications undertakings obliged to finance the subsidy and the proportion of their contribution to the subsidy immediately having determined the subsidy due.

2. The President of UKE shall determine a uniform rate of percentage contribution for all telecommunications undertakings obliged to participate in financing the subsidy, taking account of the amount of the subsidy to be financed. The proportion of the contribution of a given telecommunications undertaking in financing the subsidy, to be not higher than 1% of its revenue, shall be determined proportionally to the amount of this undertaking's revenue from telecommunications activities in a given calendar year.

3. The President of UKE shall determine, by means of a decision, the amount of the participation in financing the subsidy for a telecommunications undertaking. This decision shall be immediately enforceable.

4. The subsidy amount shall be subject to the administrative execution of dues.

5. In the event of the subsidy amount being obtained from an undertaking as a result of execution, the amount of expenses related to transferring the executed due to a designated undertaking entitled to receive the subsidy, as well as execution costs, shall be covered by a telecommunications undertaking obliged to participate in financing the subsidy, against which the execution proceedings take place.

**Article 99.** 1. The amount determined in a decision referred to in Article 98 (3) shall be paid to an appropriate UKE account used for money transfers from a telecommunications undertaking obliged to participate in financing the subsidy to a designated undertaking entitled to receive this subsidy, within 1 month of the day of receiving this decision.

2. Interest accrued on assets in the account referred to in paragraph 1 shall be added to the amount of accumulated assets.

3. The President of UKE shall transfer the subsidy to a designated undertaking entitled to receive it immediately upon receiving a transfer of payments to the UKE account proportionally to these payments.

4. Where the determined amount of the subsidy exceeds the amount of assets accumulated in the UKE account, the subsidy obligation in a subsequent calendar year shall be increased by the outstanding amount.

5. The President of UKE shall publish on the UKE BIP website a report concerning the ultimate findings with regard to:

- 1) net costs of providing the service referred to in Article 81 (3);
- 2) documentation evaluation;
- 3) contribution of telecommunications undertakings obliged to finance the subsidy;
- 4) the amount of the subsidy transferred to a designated undertaking;
- 5) an assessment of intangible benefits for designated undertakings resulting from universal service provision.

**Article 100.** 1. The expenses of entitled units directly linked to the provision of network connection in order to ensure broadband Internet access service to entitled units shall be financed from the national budget.

2. Assets designated to cover the expenses referred to in paragraph 1 shall be transferred:

- 1) in relation to public schools, institutions and libraries referred to in Article 81 (5) point 1-6 – to local government units as a specific purpose subsidy, under the ordinance referred to in paragraph 3;
- 2) in relation to public schools, institutions and libraries run by relevant ministers, by increasing planned expenses in the budgets of these ministries;
- 3) in relation to higher schools, by increasing planned expenses of the relevant ministers supervising higher schools.

3. The Minister competent for information technology shall specify, by means of an ordinance:

- 1) the types of expenses directly linked to the provision of network connection referred to in paragraph 1, and the manner in which they should be defined and documented,
- 2) the conditions for the granting as well as the manner of dividing, transferring and using the specific purpose subsidy intended for entitled units referred to in paragraph 2 (1), as well as the manner and scope of information on the use of this subsidy  
- having regard to the need to promote education within the scope of information society and equality in education opportunities.

**Article 101.** 1. A designated undertaking may stop or significantly limit the provision of a service that the undertaking was designated to provide or modify the conditions of providing this service, in the event of the occurrence of justified circumstances preventing the compliance with conditions concerning:

- 1) preserving continuity of telecommunications services provision in the case of a telecommunications network failure or in situations of a particular risk,
- 2) preserving network integrity protection,
- 3) service interoperability,
- 4) preserving telecommunications confidentiality or data protection in the network, compliance with electromagnetic compatibility requirements  
- by informing the President of UKE about the reasons, duration or anticipated time of interruption in universal service provision, its limitation or modification in the conditions of providing this service.

2. In the cases referred to in paragraph 1, subscribers to the network of a designated undertaking shall be entitled to file a complaint to the President of UKE, who shall examine it within 7 days of the day of its filing.

3. A designated undertaking may:

1) limit the provision of telecommunications services, in the first place of those not comprising universal service, preserving the provision of services not increasing a subscriber's debt, including transferring calls to the subscriber or calls free of charge, if the subscriber has outstanding dues for the performance of telecommunications services longer than one settlement period or in the case indicated in Article 93 (4) or in Article 57 (3);

2) limit or suspend the provision of telecommunications services, if a subscriber repeatedly violates the rules and regulations for the provision of services or of an agreement for the provision of telecommunications services or takes action making the provision or usage of telecommunications services difficult or impossible.

4. A designated undertaking may unilaterally terminate an agreement with the subscriber to whom the undertaking has limited or suspended the provision of telecommunications services, having ineffectively requested the subscriber to:

1) pay dues in a time not shorter than 15 days where delay in payment for the performed telecommunications services has occurred;

2) remove the reasons for the suspension or limitation of service provision in cases referred to in paragraph 3 (2).

5. In the event of a dispute concerning the amount due, disconnection may not take place until the dispute is resolved, provided that current dues are paid.

**Article 102.** 1. A designated undertaking which, for reasons independent of its control, cannot continue to provide the service it was designated to provide, shall inform the President of UKE on its intended termination of the service provision, as well as on the activities it has taken in order to preserve continuity of service provision.

2. A designated undertaking may not cease to provide the service it was designated to provide until the provision of this service is taken over by another designated undertaking.

**Article 103.** 1. An undertaking designated to provide a nationwide directory or national directory enquiry services shall be obliged to provide these services to all end users.

1a. A subscriber of a public telephone network with an assigned number has the right to include his/her data in the nationwide directory and a nationwide directory enquiry service.

2. If the subject of a decision referred to in Article 82 (4) or in Article 83 is the obligation to provide a nationwide directory, the President of UKE shall specify in that decision detailed conditions for the provision of the service, including the form and scope of its provision as well as the level of detail for subscribers' data to be covered by that directory.

2a. If the subject of a decision referred to in Article 82 (4) or in Article 83 is the obligation to provide a nationwide directory enquiry service, the President of UKE shall specify in that decision detailed conditions for the provision of the service, including its scope, as well as the level of detail for subscribers' data to be covered by that directory enquiry service.

3. The provisions of Articles 161 and 169 shall respectively apply to a nationwide directory enquiry service and to the preparation of a nationwide directory as well as to the related process of making the data available.

4. The nationwide directory and the nationwide directory enquiry should be updated by a telecommunications undertaking at least once a year.



### Chapter 3

#### Liability for non-performance or inadequate performance of telecommunications services

**Article 104.** 1. The provisions of the Civil Code shall apply to telecommunications undertakings' liability for non-performance or inadequate performance of telecommunications services, subject to paragraph 2 and Article 107 (1).

2. A designated undertaking shall be liable for non-performance or inadequate performance of universal service only within the scope defined by this Act.

3. The provision of paragraph 2 shall not apply where non-performance or inadequate performance of universal service results from intentional guilt, gross negligence of a designated undertaking, or is a consequence of a misdeed.

4. A telecommunications undertaking providing international services shall be liable for their non-performance or inadequate performance within the scope of and based on the rules determined in international agreements to which the Republic of Poland is a party.

**Article 105.** 1. For each day that the periodically payable universal service or the service referred to in Article 81 (5) is not available, a subscriber shall be entitled to compensation amounting to 1/15 of an average monthly fee, the calculation being based on receipts for the previous three settlement periods, however for the period not longer than the last 12 months.

2. A subscriber shall not be entitled to compensation if the total time of interruptions is shorter than 36 hours in the settlement period.

3. Regardless of compensation, a subscriber shall be entitled to a return of 1/30 of a monthly rental fee for each day during which the periodically payable telephone service has been unavailable for more than 12 hours.

4. Where a designated undertaking fails by its own fault to keep:

1) the time limit for the conclusion of an agreement referred to in Article 87, or

2) the start-up date for the provision of services as specified in an agreement for the provision of universal service or the service referred to in Article 81 (5)

- for each day beyond the specified time, an end user shall be entitled to receive from a designated undertaking the compensation of 1/30 of a monthly rental fee charged by this undertaking for the provision of periodically payable universal service or the service referred to in Article 81 (5), as specified in an agreement.

**Article 106.** 1. A provider of publicly available telecommunications services shall consider complaints about the telecommunications service.

2. Where a complaint about a telecommunications service is not considered within 30 days of the day of its filing, it is considered that it has been taken account of. A complaint shall be considered if prior to the time limit the provider of publicly available telecommunications services sends a reply that a complaint has been taken account of or has not been taken account of.

3. Where a complaint about a telecommunications service has been taken account of, the charge referred to in Article 80 (2) shall be subject to return.

4. The Minister competent for communications shall specify, by means of an ordinance, the complaint procedure as well as the conditions which should be met by a complaint about the telecommunications service concerning:

1) failure to keep the time limit for the conclusion of an agreement for the provision of universal service or the service referred to in Article 81 (5) by a designated undertaking by its own fault,

- 2) failure to keep the start-up date for the provision of the service as specified in an agreement for the provision of telecommunications services, by a service provider by its own fault,
  - 3) non-performance or inadequate performance of the telecommunications service,
  - 4) inadequate calculation of dues resulting from the provision of the telecommunications service
- having regard to the necessary protection of an end user's interest.

**Article 107.** 1. An end user shall have the right to vindicate, through judicial proceedings or proceedings referred to in Articles 109 and 110, any claims defined in the Act, having exhausted the complaint procedure.

2. The complaint procedure, in the event referred to in paragraph 1, shall be deemed to have been exhausted if a complaint has not been considered or the provider of publicly available telecommunications services fails to pay the vindicated claim within 30 days of the day the complaint about a telecommunications service is taken account of.

**Article 108.** 1. The claims vindicated under Article 105 shall be subject to limitation after a period of 12 months from the end of the settlement period during which the telecommunications service was unavailable, or from the day when a service was inadequately performed or should have been performed.

2. The flow of the time limitation for claims shall be suspended for the period between the filing of a complaint about a telecommunications service and the day of answering the complaint, although not longer than for the time provided for considering the complaint.

## **Chapter 4**

### **Dispute resolution methods**

**Article 109.** 1. A civil law dispute between a consumer and a provider of publicly available telecommunications services may be ended in a conciliatory manner during the course of mediation proceedings.

2. Mediation proceedings shall be conducted by the President of UKE at a consumer's request or ex officio, where the protection of consumer interests requires so.

3. During mediation proceedings, the President of UKE shall acquaint a provider of publicly available telecommunications services with a consumer's claim, present the provisions of law applicable to this case and possible proposals for a conciliatory resolution of the dispute by the parties.

4. The President of UKE may specify the time limit for reaching a conciliatory resolution of the case by the parties.

5. The President of UKE may abandon mediation proceedings where the case has not been resolved in a conciliatory manner within a specified time limit or where at least one of the parties declares that it does not agree to resolve the case in a conciliatory manner.

**Article 110.** 1. Permanent consumer arbitration courts under the care of the President of UKE, hereinafter called "arbitration courts", shall be established under agreements with regard to organizing such courts concluded between the President of UKE and non-governmental organisations representing consumers, telecommunications undertakings or postal operators. Administrative costs of the functioning of arbitration courts shall be covered by the President of UKE.

2. Agreements referred to in paragraph 1 shall specify, in particular, the rules for covering arbitrators' remuneration costs and the return of costs incurred in relation to the performance of arbitrator activities.

3. The arbitration courts shall examine disputes:

- 1) with regard to property rights resulting from agreements for the provision of telecommunications services, including connection to a public telecommunications network, concluded between consumers and telecommunications undertakings;
- 2) with regard to property rights resulting from agreements for the provision of postal services.

4. The Minister of Justice, in agreement with the Minister competent for communications, shall specify, by means of an ordinance, the rules and regulations for the organisation and operation of arbitration courts under the care of the President of UKE, including:

- 1) the internal organisation of arbitration courts,
- 2) the procedure for the functioning of arbitration courts,
- 3) jurisdictional and administrative activities of arbitration courts and their bodies,
- 4) requirements concerning arbitrators' qualifications and impartiality  
- having regard to the principles of independence, transparency, adversary trial system, effectiveness and representation, as well as the specificity of telecommunications and postal issues.

5. The provisions of the Code of Civil Procedure shall apply to proceedings before arbitration courts within the scope not regulated by the Act.

## **PART IV**

### **Numbering and frequency management**

#### **Chapter 1**

#### **Frequency management**

**Article 111.** 1. The allocation of frequencies or frequency bands, hereinafter referred to as "frequencies", to particular radiocommunication services and the use of these frequencies shall be specified in the National Frequency Allocation Table.

2. Frequencies may be used as:

- 1) civil;
- 2) governmental;
- 3) civil and governmental.

3. The Council of Ministers shall specify, by means of an ordinance, the National Frequency Allocation Table, implementing the national policy within the scope of frequency resources management, the compliance with electromagnetic compatibility requirements and telecommunications, taking account of:

- 1) international radiocommunication regulations;
- 2) policy orientations and objectives with regard to strategic planning, coordination and harmonization of radio spectrum usage defined in multi-annual radio spectrum policy programmes adopted by the European Parliament and the Council under Article 8a (3) of Directive 2002/21/EC of the European Parliament and the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.04.2002, p. 33);
- 3) the requirements concerning:
  - 1) ensuring conditions for harmonized development of radiocommunication services and the domains of science and technology that use frequency resources,
  - 2) the implementation of new, effective radiocommunication technologies,

3) national defence and state security, as well as public safety and order.

**Article 112.** 1. The President of UKE shall determine the frequency management plans and modifications to these plans on his/her own initiative, or:

1) at the request of a body to which a general exclusive frequency licence is granted, in cooperation with this body;

2) according to the needs and technical capabilities within the remaining frequency bands.

2. In relation to frequencies intended for the broadcasting of radio and television programmes, the President of UKE shall determine the frequency management plans and modifications to these plans in agreement with the Chairperson of KRRiT at his/her request or on his/her own initiative.

3. The agreement referred to in paragraph 2 shall regard the number and type of planned frequencies and networks as well as the coverage and location of transmitting stations.

4. Frequency management plans and their modifications shall take into account in particular:

1) the national policy concerning frequency management;

2) the national policy concerning radio and television broadcasting and telecommunications;

3) compliance with electromagnetic compatibility requirements;

4) compliance with requirements concerning national defence and state security as well as public safety and order;

5) agreed frequency allocations within the European Union;

6) the need to effectively use the frequencies, as well as assumptions of the policy with regard to granting the rights that require a general exclusive frequency licence as contained in the request of the body referred to in paragraph 2;

7) the need to ensure technological and service neutrality;

8) the principle of reducing limitations on the ways of spectrum usage.

5. Frequency management plans and their modifications shall be without prejudice to any previous general exclusive frequency licences.

6. The President of UKE shall provide information with regard to the possibility of frequency use to interested entities free of charge.

7. The President of UKE shall publish on the UKE BIP website information about the commencement of works on a management plan for a specific frequency band, or on the modifications to this plan, including a draft management plan for a specific frequency band or draft modifications thereto. The provisions on consultation proceedings shall apply.

8. The provision of paragraph 7 shall not apply to the management plan for frequencies intended for analogue broadcasting or re-broadcasting of radio and television programmes.

**Article 113.** 1. The Minister competent for communications may specify, by means of an ordinance, detailed conditions for the performance of particular radiocommunication services within the frequency bands allocated to them, taking account of the requirements observed while drawing the National Frequency Allocation Table.

2. The Minister competent for communications may specify, by means of an ordinance, detailed conditions for the use of frequency bands designated for equipment used in the industry, medicine or science, taking account of the requirements observed while drawing the National Frequency Allocation Table.

**Article 114.** 1. A general exclusive frequency or orbital resources licence, hereinafter called “a general exclusive frequency licence”, shall specify the frequencies or orbital resources which remain, during the period of its validity, at the disposal of the entity to which the licence was granted, the frequency rights were transferred or the right to use the frequencies for the purposes of obtaining a radio licence was transferred.

2. A general exclusive frequency licence shall be granted, modified or withdrawn by the President of UKE. A general exclusive frequency licence for the re-broadcasting or broadcasting of radio or television programmes shall be granted, modified or withdrawn by the President of UKE in agreement with the Chairperson of KRRiT. Failure to take position by the Chairperson of KRRiT within 30 days of the date of receiving a draft decision on a general exclusive frequency licence shall be equal to agreement on the draft.

2a. The agreement referred to in paragraph 2 shall not be required for granting, modification or withdrawal of a general exclusive frequency licence for the purpose of analogue broadcasting of radio or TV programmes, to which the Chairperson of KRRiT has respectively granted, modified or withdrawn a licence.

3. A general exclusive frequency licence shall be granted to an entity which meets the requirements specified in the Act and if the frequencies covered by the request:

a) are available,

2) have been allocated in the National Frequency Allocation Table for the requested radiocommunication service and the frequency management plan provides for their use in accordance with the request;

3) may be protected against harmful interference;

4) may be used by radio equipment without causing harmful electromagnetic disturbances or collisions with general exclusive frequency licences, radio licences or decisions referred to in Article 114 and Article 114 that have been granted to other entities;

5) may be used effectively;

6) have been internationally agreed within the scope and form specified in international radiocommunication regulations or agreements to which the Republic of Poland is a party - if there is a possibility of causing harmful interference outside the borders of the Republic of Poland.

4. A decision on a general exclusive frequency licence shall be issued by the President of UKE within 6 weeks of the request's submission by the entity applying for a general exclusive frequency licence, subject to paragraph 4a.

4a. Where the granting of a general exclusive frequency licence requires a tender, an auction, a contest or international agreements, the President of UKE shall issue a decision on a general exclusive frequency licence within 6 weeks of the date when the results of a tender, an auction, a contest were announced or international agreements were completed.

4b. Information on granting a general exclusive frequency licence shall be published without delay on the UKE BIP website. This information shall include the name of an entity to whom a general exclusive frequency licence was granted, the scope of frequencies covered by that licence and the period for which it was granted.

5. A general exclusive frequency licence shall be granted for a specified period of time, not longer than 15 years, taking account of:

1) the nature of the services provided by an entity applying for a general exclusive frequency licence;

2) investment necessary to use the frequencies covered by the licence;

3) international orientations in development of spectrum usage.

6. A general exclusive frequency licence may be granted to several users.

6a. In the case referred to in paragraph 6, the President of UKE, by means of a decision issued under Article 114a, shall set the conditions of shared use of spectrum in particular with regard to:

1) ensuring the possibility of managing end user's service by an authorised telecommunications undertaking and making decisions on the provision of services for his/her benefit;

2) granting access to technical interfaces, protocols or other key technologies that are indispensable to ensure service interoperability.

7. In the case of frequencies used as civil and governmental, the President of UKE shall grant general exclusive frequency licences in agreement with the interested entities referred to in Article 4.

8. The provisions on general exclusive frequency licences shall not apply to the entities referred to in Article 4, administering frequencies allocated for governmental use in the National Frequency Allocation Table.

**Article 114a.** 1. In contentious issues related to shared use of frequencies the President of UKE may, at the request from a user sharing that frequency, impose, by means of a resolution, on the users sharing the frequency, excluding users listed in Article 4, the obligation to take up negotiations on shared use of frequencies, at the same time defining the time limit for concluding these negotiations, not longer than 30 days of the date on which the resolution was issued.

2. If negotiations referred to in paragraph 1 are not taken up by an entity obliged to do so or no agreement is reached by the parties, the President of UKE shall define, by means of a decision, at a party's request, the conditions for shared use of frequencies, taking account of effective frequency usage. In the case of frequencies used for broadcasting or re-broadcasting of radio or television programmes, the President of UKE shall issue a decision in agreement with the Chairperson of KRRiT. Failure to take position by the Chairperson of KRRiT within 30 days of the date of receiving a draft decision on shared frequency use shall be equal to agreement on the draft.

3. The request referred to in paragraph 1 and 2 should include the positions on shared frequency usage of the respective users, indicating the issues on which the parties were not able to reach an agreement.

4. The parties shall be obliged to submit to the President of UKE, at his/her request, within 14 days, the documents necessary to consider the request and their positions on divergences.

5. For issues referred to in paragraph 1, the President of UKE may issue a resolution specifying the conditions for shared frequency use at the request of one of the parties before the dispute is finally settled according to Article 2.

**Article 115.** 1. A general exclusive frequency licence shall specify:

1) an entitled entity to which a general exclusive frequency licence is granted, as well as its seat and address;

2) a frequency band or orbital positions covered by the licence;

3) the area in which the frequencies may be used;

4) types of radiocommunication services;

5) the time limit within which the entity is entitled to commence frequency usage;

6) conditions for issuing a radio licence taking account of the conditions resulting from international agreements to which the Republic of Poland is a party;

7) (deleted);

8) the periods for frequency use;

9) obligations of an entity assumed during a tender, an auction or a contest, if they have been assumed.

2. A general exclusive frequency licence may specify in particular:

1) conditions for the use of frequencies referred to in Article 146;

2) requirements concerning the prevention of harmful electromagnetic disturbances or collisions with general exclusive frequency licences, radio licences or decisions on the right to use the frequency that have been granted to other entities;

- 2a) the time limit within which the entity is entitled to commence frequency usage;
- 3) protective duties concerning electromagnetic radiation;
- 4) (deleted);
- 5) proportionate and non-discriminating limitations on the way the frequencies covered by a general exclusive frequency licence are used, which may consist in defining the type of:
  - a) radio networks or types of radio access technologies which may be used using these frequencies, subject to Article 115<sup>1</sup> (1),
  - b) the telecommunications service which should be provided using these frequencies, subject to Article 115<sup>1</sup> (2),
  - c) the telecommunications service covered by a prohibition to provide using these frequencies, subject to Article 115<sup>1</sup> (3).
- 2a. A general exclusive frequency licence may exempt from the obligation to obtain a radio licence if the conditions of frequency use referred to in Article 146 have been defined.
- 3. A general exclusive frequency licence intended for digital broadcasting or re-broadcasting of programmes, whether terrestrial or satellite, shall in addition specify:
  - 1) television or radio programmes in a multiplex, hereinafter referred to as "audiovisual components";
  - 2) the order of audiovisual components in the multiplex;
  - 3) a proposed share of audiovisual components in the multiplex;
  - 4) an area in which audiovisual components of the multiplex may be broadcast or re-broadcast;
  - 5) the use of transmission systems' capacity.
- 4. A general exclusive frequency licence intended for digital terrestrial broadcasting or re-broadcasting of programmes shall in addition specify:
  - 1) parameters and technical standards for digital TV transmission;
  - 2) conditions of the management of capacity for updates of system software in digital receivers intended for the reception of digital terrestrial transmissions;
  - 3) the use of the multiplex capacity.

**Article 115<sup>1</sup>.** 1. The President of UKE may define in a general exclusive frequency licence limitations on the ways of using the frequencies covered by that licence, referred to in Article 115 (2) point 5a, where the introduction of such limitations is justified by the need to:

- 1) avoid harmful electromagnetic disturbances or harmful interference;
- 2) protect the general public against exposure to electromagnetic fields;
- 3) ensure adequate technical quality of service;
- 4) ensure shared use of spectrum to the maximum extent;
- 5) guarantee effective frequency usage;
- 6) ensure that public interest objectives are pursued, in particular such as:
  - a) protecting human life and health,
  - b) promoting social, regional or territorial cohesion,
  - c) avoiding inefficient spectrum usage,
  - d) promoting cultural and linguistic diversity and media pluralism, in particular by providing radio and television broadcasting services.
- 2. The limitation referred to in Article 115 (2) point 5b may be imposed by the President of UKE, if it is justified to introduce such a limitation by the need to pursue a public interest objective referred to in paragraph 1 point 6.
- 3. The limitation referred to in Article 115 (2) point 5c may be imposed by the President of UKE, if it is justified by the need to protect services related to human life and health.
- 4. The provisions on consultation proceedings shall apply to a decision on a general exclusive frequency licence with respect to limitations on the ways of using the frequencies covered by

that licence, referred to in Article 115 (2) point 5. In the case of a tender, an auction or a contest the provision shall apply to a draft decision.

**Article 115<sup>2</sup>.** An entity referred to in Article 15 (1) of the Act of 8 September 2000 on commercialisation, restructuring and privatisation of the state company "Polskie Koleje Państwowe" - Polish State Railways (Journal of Laws No. 84, item 948 with subsequent amendments), performing railway communications tasks within the scope of the European Rail Traffic Management System (ERTMS) in the territory of the Republic of Poland shall use the frequencies for the purposes of those tasks under a decision on a general exclusive frequency licence issued by the President of UKE, having agreed upon with the minister competent for transport. The provision of Article 116 (1) shall not apply.

**Article 115a.** 1. If part of the multiplex capacity is freed up due to its user's resignation, the remaining users of the multiplex may, within 30 days of the resignation date, put forward to the National Broadcasting Council and to the President of UKE, an agreed manner of using the released part of the multiplex capacity, in particular of placing a new programme on the multiplex, provided that this programme has been licensed for digital terrestrial broadcasting in the multiplex subject to the provisions of the Broadcasting Act of 29 December 1992.

2. In the case of failure to put forward the manner of using the released part of the multiplex capacity within the time limit referred to in paragraph 1, the provisions of the Act with respect to a contest for a general exclusive frequency licence for the purposes of radio or TV programmes broadcasting shall apply.

3. If the National Broadcasting Council and the President of UKE do not object to the manner of using the released part of multiplex capacity referred to in paragraph 1 within 14 days of the date of receiving it, the proposed manner shall be considered as agreed.

**Article 115b.** In the transitional period, within the meaning of Article 2 point 4 of the Act of 30 June 2011 on the implementation of digital terrestrial television (Official Journal No. 153, item 903), the President of UKE shall indicate in a general exclusive frequency licence in the broadcasting service for the purposes of terrestrial digital broadcasting or re-broadcasting of TV programmes in a multiplex:

- 1) conditions of the management of multiplex capacity;
- 2) conditions for the use of frequencies in the broadcasting service during the transitional period;
- 3) time limits for ceasing to use frequencies in the broadcasting service for TV programmes broadcasting in an analogue manner in the area where the frequency is used in the broadcasting service.
- 4) time limits for commencing the use of frequencies in the broadcasting service for TV programmes digital broadcasting in the area where the frequency is used in the broadcasting service.

**Article 116.** 1. In the absence of sufficient frequency resources, entities to which a general exclusive frequency licence is granted shall be appointed by means of:

- 1) a contest – in the case of licences for digital broadcasting or re-broadcasting of radio or television programmes;
- 2) a tender or an auction – in the remaining cases.

2. The President of UKE shall publish on the UKE BIP website information on occupied frequency resources and update it at least once a month.

3. Where a request for a general exclusive frequency licence is filed with respect to a frequency which is not included in the information referred to in paragraph 2, the President of



UKE shall publish information on the UKE BIP website on the availability of that frequency defining a time limit of 14 days for the interested parties to indicate their interest in the general exclusive frequency licence and shall inform the requesting party thereof. Where within the time limit specified by the President of UKE, the interest indicated in writing or electronically exceeds available frequency resources, a lack of sufficient frequency resources shall be found.

4. Indicating interest in a general exclusive frequency licence referred to in the second sentence of paragraph 3, shall not require the submission of a request for a general exclusive frequency licence.

5. The time limit for completing a tender, an auction or a contest may not be longer than 8 months of the date of filing a request referred to in the first sentence of paragraph 3.

6. A tender, an auction or a contest shall be carried out by the President of UKE.

7. A tender, an auction or a contest shall constitute proceedings separate from proceedings related to a general exclusive frequency licence. The provisions of the Code of Administrative Procedure of 14 June 1960 shall not apply to a tender, an auction and a contest.

8. The President of UKE shall grant a general exclusive frequency licence for a subsequent period of time at the request of an entity which throughout its use of the frequency did not violate the conditions of the frequency use specified in the Act, executive provisions and the decision on a general exclusive frequency licence, and for a broadcaster - also if it holds a licence for a subsequent period, following consultation proceedings on this matter, subject to paragraph 9 and Article 114 (3). When granting a general exclusive frequency licence for a subsequent period of time no tender, auction or contest shall be carried out.

9. The President of UKE, in agreement with the President of UOKiK, may, by means of a decision, refuse a general exclusive frequency licence for a subsequent period, if justified by the need to ensure effective frequency usage, in particular in a situation where granting a general exclusive frequency licence for a subsequent period could lead to spectrum hoarding by a given entity or a capital group, within the meaning of the Act of 16 February 2007 on competition and consumer protection (Journal of Laws No. 50, item 331, with subsequent amendments), involving that entity. Paragraphs 1-7 shall apply in the case of issuing a decision refusing to grant a general exclusive frequency licence for a successive period.

10. A request referred to in paragraph 8 should be submitted not earlier than 12 months before the frequency usage period expires and not later than 6 months before the expiry of this period.

11. A request submitted earlier than 12 months before the frequency usage period expires shall not be considered by the President of UKE. Paragraph 8 shall not apply to a request submitted later than 6 months before the expiry of this period.

12. The President of UKE may, on his/her own initiative, announce a tender, an auction or a contest for a general exclusive frequency licence, if it has knowledge of interest in available frequency resources which exceeds available frequency resources.

**Article 116a.** 1. The provision of Article 116 (1) shall not apply where an entity which has obtained a general exclusive frequency licence files a request for modification to its licence in order to optimise the use of frequencies or to protect them against harmful interference, unless the request refers to modification of a licence within the scope of:

- 1) extension of the frequency range covered by the licence;
- 2) extension of a licence area.

2. If the request refers to modification to the licence within the scope referred to in paragraph 1 point 1 or point 2, the President of UKE shall inform on the UKE BIP website without delay that the request has been submitted and shall define a time limit of 14 days for expressing interest in a general exclusive frequency licence within the scope indicated in paragraph 1

point 1 or point 2. Expressing interest in obtaining a general exclusive frequency licence shall not be equivalent to the obligation to participate in a tender, an auction or a contest.

3. Where there is at least one entity expressing its interest referred to in paragraph 2, the President of UKE, within 7 days of receiving the notification, shall inform the requesting party of the need to carry out a tender, an auction or a contest. If the requesting party does not withdraw its request within 30 days of receiving the information, the President of UKE shall announce a tender, an auction or a contest. The provision of Article 123 (6) point (4) shall respectively apply.

4. The provisions of Article 116 (5) to (7) and Articles 118-119 shall apply to a tender, an auction or a contest referred to in paragraph 3. The entities participating in a tender, an auction or a contest other than the entity requesting modification to a general exclusive frequency licence shall file the request for granting a licence for the frequency subject to that tender, auction or contest, and the entity requesting modification to a general exclusive frequency licence shall file a request for issuing a decision on modification to a general exclusive frequency licence granted to that entity. The provision of Article 123 (6) point (5) shall respectively apply.

**Article 117.** (deleted).

**Article 118.** 1. A tender, an auction or a contest shall be announced immediately after completing a relevant consultation procedure.

2. The announcement of a tender, an auction or a contest shall be published on the UKE BIP website. An announcement of a tender, an auction and a contest shall specify the subject and scope of a tender, an auction or a contest, participation conditions as well as the criteria for selection of offers as specified in Article 118a (1), (2a) and (3).

2a. The President of UKE may cancel a tender, an auction or a contest within the time limit for submitting offers specified in an announcement of a tender, an auction or a contest, if such an option was reserved in the announcement. Information on cancellation of a tender, an auction or a contest together with reasons shall be published on the UKE BIP website. The President of UKE shall not disclose information on entities that have submitted their offers in a cancelled tender, auction or contest.

2b. The offers submitted within the framework of a cancelled tender, auction or contest shall be returned without opening. The guarantee shall be returned within 7 days of cancelling the tender or auction.

3. Together with an announcement of a tender, an auction or a contest the President of UKE shall publish on the UKE BIP website the tender, auction or contest documentation, hereinafter referred to as the "documentation".

4. The President of UKE, subject to paragraph 4a and 5, shall specify in the documentation the conditions for participation in a tender, an auction or in a contest, as well as the requirements to be met by the offers and criteria for evaluation of the offers. The President of UKE may specify a qualifying minimum in the documentation.

4a. While determining the conditions for participation in an auction, the President of UKE may indicate frequency resources with properties corresponding to the frequencies within the band subject to an auction, the possession of which shall exclude the entity having these resources at its disposal or entities in a capital group, within the meaning of an Act of 16 February 2007 on competition and consumer protection, having these resources at its disposal.

5. The conditions for a contest regarding additional obligations and tasks of an undertaking related to programme content, including the conditions for must-carry transmissions, shall be defined by the National Broadcasting Council at the request of the President of UKE within

30 days of receiving the request, taking account of non-economic national interests concerning culture, language and media pluralism.

6. The documentation shall specify which parts of an offer from a participant to a tender, an auction or a contest shall constitute obligations referred to in Article 115 (1) point (9).

7. The documentation shall be made available at a fee that may not exceed the costs of producing it. The fee shall be charged by the Office of Electronic Communications.

**Article 118a.** 1. The criteria for evaluating offers in a tender shall be:

- 1) maintaining competition;
- 2) the amount declared by a participant to a tender;
- 3) other objective criteria than those specified under point 1 and 2, if listed in the documentation.

2. The President of UKE shall select in the documentation the most important criterion of evaluating offers in a tender out of the criteria referred to in paragraph 1 (1) and (2), having regard to regulatory objectives and the level of competition in the market.

2a. The criterion for evaluating offers in an auction shall be the amount declared by a participant to an auction.

3. The criteria for evaluating offers in a contest shall be:

- 1) maintaining competition;
- 2) other objective criteria than those specified under point 1, if listed in the documentation.

4. With respect to maintaining competition referred to in paragraph 1 (1) and paragraph 3 (1), the President of UKE shall seek an opinion of the President of UOKiK.

5. The examination of offers in a tender, an auction or a contest shall involve two stages.

**Article 118b.** 1. A selected entity referred to in Article 116 (1) shall be a participant to a tender, an auction or a contest which:

- 1) has met the requirements for participation in a tender, an auction or a contest;
- 2) has reached the qualifying minimum, if specified in the documentation;
- 3) has ranked top in the list referred to in Article 118c (1), or where a tender, an auction or a contest concerns more than one general exclusive frequency licence, acquired a ranking not lower than the number of licences in that tender, auction or contest.

2. Where resignation from a general exclusive frequency licence prior to granting it to a selected entity, including failure to submit a request referred to in Article 118c (4), or circumstances referred to in Article 123 (6) points (1) and (2) should occur on the part of this entity, a selected entity shall become a participant to a tender, an auction or a contest ranked next in the list referred to in Article 118c (1) and satisfying the conditions referred to in paragraph 1 points (1) and (2).

**Article 118c.** 1. The results of a tender, an auction or a contest shall be announced at the seat and on the UKE BIP website, in a form of a list of participants to a tender, an auction or a contest that have met the participation conditions and have reached the qualifying minimum, if specified in the documentation, ranked according to a descending number of points they have obtained. If different frequency ranges were subject to a tender, an auction or a contest, the President of UKE shall prepare a separate list of tender, auction or contest results for each frequency band.

2. Subject to paragraph 3, having completed a tender, an auction or a contest, a relevant authority shall carry out separate proceedings for each general exclusive frequency licence.

3. If more than one general exclusive frequency licence was subject to tender, auction or contest, a relevant authority shall carry out separate proceedings for each of these licences.

4. The parties to the proceeding referred to in paragraph 2 and 3 shall be the participants to a tender, an auction or a contest who submitted requests for a general exclusive frequency licence within 7 days of the day on which the results of a tender, an auction or a contest were announced.

**Article 118d.** 1. The President of UKE ex officio or at the request of a participant to a tender or a contest submitted within 21 days of the day on which the results of a tender, an auction or a contest were announced shall, by means of a decision, annul a tender, an auction or a contest where the law or the interests of participants to a tender, an auction or a contest were severely undermined.

2. A participant to a tender, an auction or a contest shall be entitled to submit a request for re-considering the case to the President of UKE in response to a decision annulling a tender, an auction or a contest, and having exhausted this procedure, a complaint to the Provincial Administrative Court in Warsaw.

3. A participant to a tender, an auction or a contest shall not be entitled to any other means of reviewing decisions taken during a tender, an auction or a contest than those specified in paragraph 1 and 2.

4. Having annulled a tender, an auction or a contest, if it is possible to remove in this manner the breaches to the law or to the interests of participants to that tender, auction or contest, which were the reason for annulment of the tender, auction or contest, the President of UKE shall carry out activities indispensable to remove these breaches.

5. The conditions referred to in paragraph 4 shall be carried out:

- 1) based on conditions for participation in a tender, an auction or a contest, the requirements to be met by an offer as well as the criteria for evaluating the offers formulated before the annulment in an announcement of a tender, an auction or a contest and in the documentation;
- 2) in relation to offers submitted within the time limit before the tender, auction or contest was annulled.

6. Where it is necessary to carry out the activities referred to in paragraph 4, the President of UKE shall evaluate the offers and seek the opinion of the President of UOKiK with respect to these offers.

7. Changes to the results of a tender, an auction or a contest as a consequence of annulment of the tender, auction or contest shall provide grounds for renewing the proceeding with respect to a general exclusive frequency licence granted after a completed tender, auction or contest.

8. An entity selected having completed the activities referred to in paragraph 4, may not be an entity which was selected prior to annulment of a tender, an auction or a contest and resigned from a general exclusive frequency licence before it was granted, including its failure to submit a request referred to in Article 118c (4) or to pay a declared one-off fee.

9. Where in accordance with the conditions for a tender, auction or contest, the participant submits more than one offer, paragraph 8 shall apply exclusively to the offer in relation to which the entity selected prior to annulment of a tender, an auction or a contest has resigned from a general exclusive frequency licence before it was granted, including its failure to submit a request referred to in Article 118c (4) or to pay a declared one-off fee.

10. The proceedings on a general exclusive frequency licence shall not be renewed, if 10 years have elapsed from the day on which the results of a tender, an auction or a contest were announced.

11. A decision on the general exclusive frequency licence shall not be revoked, if 10 years have elapsed from the day on which it was delivered or announced.

**Article 118e.** 1. The President of UKE shall deem, by means of a decision, a tender, an auction or a contest unresolved, if:

- 1) none of the participants have met the requirements for participation in a tender, an auction or a contest or have not reached the qualifying minimum, if specified in the documentation;
  - 2) if in a situation referred to in Article 118b (2), there are no other participants. In the case of a tender, an auction or a contest for different general exclusive frequency licences, finding that tender, contest or auction unresolved shall refer only to the general exclusive frequency licence for which there are no other participants on the list.
2. A tender, an auction or a contest shall be unresolved, if no entity took part in a tender, an auction or a contest within a time limit indicated in the documentation. Information on this matter shall be published on the UKE BIP website.

**Article 119.** 1. A tender or an auction announcement shall also specify the amount of a guarantee.

2. The amount of a guarantee may neither be lower than 5% of an annual fee for the right to use the frequency referred to in Article 185 (4), nor higher than 200% of that fee, although not lower than PLN 500. In the case of a tender and an auction for several general exclusive frequency licences - the amount of a guarantee and the payment obligation shall refer to each licence.

3. The withdrawal of an offer from a tender or an auction when the time limit for submitting offers has expired, failure to declare the amount in the first auction round or resignation of a selected entity, referred to in Article 118b (1) or (2), from receiving a general exclusive frequency licence, including failure to submit a request referred to in Article 118c (4), shall result in the loss of a guarantee.

4. In the case a participant to a tender or an auction has become a selected entity for more than one general exclusive frequency licence, the provision of paragraph 3 shall apply respectively to each offer.

5. A guarantee paid by a selected entity referred to in Article 118b (1) or (2) shall be credited to its fee for a general exclusive frequency licence. If the guarantee is higher than that fee, the President of UKE shall, within 7 days of the day on which the results of the tender or auction were announced, return the surplus.

6. The guarantee paid by a participant to a tender or an auction who has met the conditions for participating in that tender or auction as well as has reached the qualifying minimum, if specified in the documentation, shall be returned within 14 days of the day on which the decision on granting a general exclusive frequency licence was delivered to the selected entity, and in the case of a participant to a tender or an auction who has failed to meet the conditions for participating in that tender or auction or to reach the qualifying minimum - within 14 days of the day on which the results of the tender or auction were announced or the tender or auction were declared unresolved.

**Article 120.** The Minister competent for communications shall specify, by means of an ordinance, the procedure for announcing a tender, an auction and a contest which ensures that entities interested in receiving a general exclusive frequency licence are appropriately informed, as well as:

- 1) detailed requirements with regard to the announcement text and documentation contents,
  - 2) conditions and procedures for organising, carrying out and closing a tender, an auction and a contest, including:
    - a) the appointment and work of the tender, auction and contest committees,
    - b) the manner of payment and return of a guarantee – for a tender and an auction
- guided by the need to ensure that the conditions for a tender, an auction and a contest are objective, transparent and do not discriminate against any of the participants, as well as transparent decision making conditions.

**Article 121.** (deleted).

**Article 122.** 1. With the exception of a general exclusive frequency licence for analogue broadcasting of radio or television programmes, the President of UKE shall change an entity that holds a licence, where:

1) the entity holding this licence submits a request for a change of an entity in favour of which a general exclusive frequency licence was granted, and indicates an entity which shall be entitled due to modifications to this licence;

2) the entity indicated in the request referred to in point 1) agrees in writing to take over the rights and obligations resulting from modifications to an entity entitled to this licence and;

3) the entity indicated in the request referred to in point 1) meets the requirements specified in the Act.

2. A request referred to in paragraph 1 (1) concerning part of a frequency range or orbital resources covered by a licence or part of an area in which frequencies may be used should also specify:

1) the scope of frequencies or orbital positions to be held by an entity indicated in the request referred to in paragraph 1 (1);

2) an area, according to an administrative division of the country, in which it will be possible for an entity indicated in the request referred to in paragraph 1 (1) to use the frequencies;

3) a proposal to assign the rights, other than those referred to in point 1) and 2), and obligations arising from a licence, including obligations referred to in Article 115 (1) (9), respectively to a frequency range or orbital positions covered by a licence or to an area in which frequencies may be used by an entity indicated in the request referred to in paragraph 1 (1).

3. The President of UKE shall refuse to change an entity holding a general exclusive frequency licence within the scope referred to in paragraph 1 or 2, if:

1) there are reasonable grounds that a requested change will not contribute to the achievement of objectives specified in Article 1 (2), or

2) there are reasonable grounds that an entity indicated in the request referred to in paragraph 1 (1) or paragraph 2 will not meet the obligations arising from a general exclusive frequency licence, including obligations referred to in Article 115 (1) (9), or

3) a proposal for assigning the rights, other than those referred to in paragraph 2 (1) and (2), and obligations arising from a general exclusive frequency licence, including obligations referred to in Article 115 (1) (9), does not correspond to a frequency range or orbital positions covered by a licence or an area in which frequencies may be used by an entity indicated in the request referred to in paragraph 1 (1).

4. Except for a change of an entity holding a general exclusive frequency licence and modifications referred to in paragraph 2, the provisions of a general exclusive frequency licence shall stand.

5. The President of UKE shall change an entity holding a general exclusive frequency licence granted by means of a tender, an auction or a contest having sought an opinion of the President of UOKiK with respect to a competitive situation.

6. The President of UKE shall take a decision to change an entity holding a general exclusive frequency licence for the purposes of digital broadcasting or re-broadcasting of radio or television programmes in agreement with the Chairperson of KRRiT.

7. The provision of paragraphs 1 to 6 shall not apply to entities referred to in Article 4.

8. The President of UKE shall announce without delay on the UKE BIP website information that a decision to change an entity holding a general exclusive frequency licence has been

issued, including the name (company) of the entity to which the licence was transferred, the frequency range, the area covered by the licence and the period of its validity.

**Article 122<sup>1</sup>.** 1. An entity holding a general exclusive frequency licence may lease the frequencies covered by the licence or transfer them for use under another legal title to another entity.

2. In the case referred to in paragraph 1, an entity to whom a general exclusive frequency licence was granted, shall notify the President of UKE, and with respect to the frequencies intended for broadcasting or re-broadcasting of radio or television programmes - also the Chairperson of KRRiT, of the frequencies lease or transfer for use, not later than within 14 days of the date of concluding an agreement.

3. The notification referred to in paragraph 2 shall specify an entity in favour of which the frequencies covered by a general exclusive frequency licence are leased or transferred for use, as well as that entity's address or seat and the period for which an agreement was concluded. If an agreement refers to part of the frequency range covered by the licence or part of an area in which the frequencies may be used being made available, the notification should also specify:

- 1) the frequency range to be held by an entity indicated in the notification or
- 2) the area in which it will be possible to use the frequencies by an entity indicated in the notification.

4. An entity to whom the frequencies were leased or transferred for use shall be obliged to use them in accordance with the provisions of the Act and the requirements specified in a general exclusive frequency licence.

5. The President of UKE may, by means of a decision, change the conditions of frequency usage or prohibit the entity referred to in paragraph 4 to use the frequencies, if:

- 1) the circumstances referred to in Article 123 (1) point 3 and 8 occur;
- 2) the use of these frequencies by that entity could lead to competitive distortions, in particular by excessive hoarding of spectrum by a given entity or a capital group, within the meaning of the Act of 16 February 2007 on competition and consumer protection - in that respect the President of UKE shall seek the opinion of the President of UOKiK.

6. In the case of frequencies intended for broadcasting or re-broadcasting of radio or television programmes, the President of UKE shall issue a decision referred to in paragraph 5 point (2), in agreement with the Chairperson of KRRiT.

7. The provision of paragraph 2 shall respectively apply to expiry or termination of an agreement for lease or transfer of frequencies for use by another entity.

8. The President of UKE shall publish without delay on the UKE BIP website the text of a notification referred to in paragraph 2, and in the case a decision referred to in paragraph 5 is made, the information about its content.

9. The entity to whom the frequencies were leased or transferred for use and for whom a decision referred to in paragraph 5 was issued prohibiting to use the frequencies, may not request a radio licence based on these frequencies.

**Article 122a.** 1. If, in the case referred to in Article 123 (1) (7), the President of UKE finds that the coverage of the territory of the Republic of Poland with telecommunications networks is not sufficient, it may, by means of a decision, oblige an entity holding a general exclusive frequency licence to use frequencies in a manner consistent with its commitments, and specify:

- 1) a time schedule for implementing coverage with telecommunications networks,
- 2) areas to be covered with telecommunications networks or the percentage of inhabitants to be covered

- taking account of end users' needs, market needs and developments in telecommunications technology.

2. The decision referred to in paragraph 1 shall be subject to the provisions of Article 16 and 17.

**Article 123.** 1. A general exclusive frequency licence may be modified or withdrawn, by means of a decision of the President of UKE where:

- 1) it is found that using radio equipment according to the licence causes harmful interference or harmful electromagnetic disturbances;
- 2) the allocation of frequencies subject to a general exclusive frequency licence was changed in the National Frequency Allocation Table;
- 3) circumstances leading to the endangering of national defence or state security, or public safety and order occur;
- 4) the use of frequencies subject to a general exclusive frequency licence will not commence within the time limit referred to in Article 115 (2) (2a) for reasons on the part of an entity holding a general exclusive frequency licence;
- 5) the frequencies are not used for at least 6 months for reasons on the part of an entity holding a general exclusive frequency licence;
- 6) repeated violations of frequency usage conditions, or an obligation to pay for the frequencies occur;
- 7) obligations referred to in Article 115 (1) (9) have not been met for reasons on the part of an entity holding a general exclusive frequency licence;
- 8) frequencies covered by a general exclusive frequency licence are used in an ineffective manner.

2. Separate from the reasons referred to in paragraph 1, the President of UKE may modify a general exclusive frequency licence within the scope of conditions for the frequency use referred to in Article 146, also if the operation of radio equipment is interfered by the other equipment or telecommunications networks.

2a. Separate from the reasons referred to in paragraph 1 or 2, the President of UKE may modify a general exclusive frequency licence within the scope referred to in Article 115b, if for technical reasons it is not possible to fulfil time limits referred to in this provision.

2b. Separate from the reasons referred to in paragraph 1-2a, the President of UKE shall modify a general exclusive frequency licence within the scope of limitations referred to in Article 115 (2) (5), if there is no need to maintain those limitations, in particular if this results from the review referred to in Article 192 (4).

3. The President of UKE shall modify the conditions for frequency use or shall withdraw a general exclusive frequency licence designated for broadcasting or re-broadcasting of radio or television programmes in agreement with the Chairperson of KRRiT.

4. (deleted).

5. (deleted).

6. A general exclusive frequency licence shall be refused where:

- 1) an applicant is not able to meet the conditions related to the use of frequencies or orbital resources;
- 2) circumstances referred to in paragraph 1 (3) occur;
- 3) this would lead to a breach of international agreements to which the Republic of Poland is a party.
- 4) it is necessary to carry out a tender, an auction or a contest and a request for a general exclusive frequency licence was submitted before a tender, an auction or a contest was announced;



5) during a tender, an auction or a contest an entity was not selected as an entity to which a general exclusive frequency licence will be granted.

7. During the validity of a general exclusive frequency licence, a radio licence for the use of radio equipment using the frequencies subject to a licence may be refused or withdrawn where one of the following circumstances occur:

- 1) a risk to national defence or state security, or to public safety and order;
- 2) a violation of international agreements to which the Republic of Poland is a party;
- 3) interference of telecommunications equipment or networks operation;
- 4) failure to meet the conditions referred to in Article 114 (3) (2), unless the legal or actual status used as the basis for granting a licence has changed.

8. The refusal to grant a general exclusive frequency licence, to modify or withdraw it in the case referred to in paragraph 1 (3), as well as a refusal to issue a radio licence or to withdraw it due to these circumstances, shall occur having sought an opinion or at the request of the Minister of National Defence, the Minister competent for internal affairs, the Head of the Internal Security Agency or the Head of the Foreign Intelligence Agency, within the scope of their competence.

9. Where a justification of an opinion or of a request of authorities referred to in paragraph 8, indicating circumstances leading to the endangering of national defence or state security or public safety and order, includes classified information, a notification that the justification has been drawn up shall be delivered in lieu of the justification itself.

10. The authorities referred to in paragraph 8 shall take their position within 21 days of the day of applying for an opinion or the day of submitting a request referred to in paragraph 8.

11. Where the authorities referred to in paragraph 8 do not take a position within the time limit referred to in paragraph 10, it shall be assumed that the requirement of receiving the position has been met.

12. A general exclusive frequency licence for broadcasting of radio or television programmes granted in order to exercise the rights resulting from the broadcasting licence shall expire if the broadcasting licence is withdrawn by the Chairperson of KRRiT or if it expires.

**Article 124.** An entity which has had a general exclusive frequency licence withdrawn due to its failure to meet an obligation referred to in Article 185 may submit a request for granting a licence in its favour not earlier than 3 years after the issuance of a decision on the withdrawal of licence.

**Article 125.** The provision of Article 123 (1) (2) shall apply to a general exclusive frequency licence granted under Article 114 (7).

## **Chapter 2**

### **Numbering management**

**Article 126.** 1. The President of UKE shall assign numbering, by means of a decision, in line with national numbering plans for public networks to telecommunications undertakings, local government units performing telecommunications activities other than telecommunications undertakings and to entities referred to in Article 4 point (1), (2), (4) and (8) at their request.

2. Numbering with a particular designation is assigned within the time limit not longer than 3 weeks of the request submission.

3. The President of UKE shall assign numbering, for which more than one request has been submitted:

- 1) having conducted consultation proceedings,

2) by means of a tender, if a consultation procedure reveals that such a procedure is necessary

- not later than within 6 weeks of the day the first request was submitted.

4. A tender shall be carried out by the President of UKE. A tender announcement shall be published in daily nationwide press and on the UKE BIP website.

5. A tender shall be governed by the provisions of Article 118 (1), (2) and (4), Article 118c (1), Article 118d (1)-(3) and Article 118e.

6. The decisive criterion for evaluating tender offers shall be the amount declared by an entity applying for a numbering assignment.

7. A numbering assignment may define the conditions for using or making the numbering available, in particular:

1) a telecommunications service for which assigned numbering will be used, providing the requirements related to the provision of that service as well as tariff principles and maximum prices;

2) commitments of an undertaking with assigned numbering which were assumed during the tender procedure referred to in paragraph 3 point 2.

3) an obligation of non-discriminating access to telecommunications services using numbering assigned to other undertakings.

8. The President of UKE shall deny a numbering assignment where the requested numbering allocation is inconsistent with the national numbering plan for public networks.

9. The President of UKE may deny an assignment of a new numbering range in the case of the use of less than 75% of the numbering ranges previously assigned.

10. The President of UKE may withdraw a numbering assignment or modify its scope, where:

1) changes occurred in the relevant national numbering plan for public networks;

2) an entity which received a numbering assignment decision does not use an assigned numbering range effectively in quantitative terms, and in the case of access numbers and similar single numbers, does not launch the service specified by this number within 12 months of receiving a numbering assignment decision;

3) an entity which received a numbering assignment decision uses assigned numbering in a manner inconsistent with numbering assignment conditions or numbering allocation specified in the relevant national numbering plan for public networks;

4) an entity which received a numbering assignment decision does not pay for the right to use numbering resources.

11. A decision on the withdrawal of a numbering assignment or on the modification of its scope:

1) may not disturb the continued provision of telecommunications services by an entity which received an assignment;

2) may be made following ineffective calls on an entity to remove the cause of the irregularity in cases described in paragraph 10 (2) and (3).

12. The Minister competent for communications shall specify, by means of an ordinance, separate for each case:

1) a national numbering plan for public telecommunications networks in which publicly available telephone services are provided, specifying in particular the scope of the plan and number formats,

2) detailed requirements concerning numbering management in public telecommunications networks

- taking account of the current and anticipated needs of telecommunications undertakings and users, including statutory emergency services, the provisions of international regulations, in particular regarding long-term, pan-European numbering plans, as well as provisions of agreements to which the Republic of Poland is a party.

13. The Minister competent for communications may specify, by means of an ordinance, national numbering plans for public telecommunications networks other than public telecommunications networks in which publicly available telephone services are provided, as well as detailed requirements for addressing principles to ensure proper call routing, signalling points numbering and creating and making available subscriber identification signs, taking account of anticipated needs of telecommunications undertakings and users, the provisions of international regulations, in particular regarding long-term, pan-European numbering plans, as well as the provisions of agreements to which the Republic of Poland is a party.

**Article 127.** 1. The President of UKE shall develop a collective list of assigned numbering, in a form of Numbering Management Tables.

2. The President of UKE shall provide information about available numbering to interested entities free of charge.

**Article 128.** 1. An entity which received a numbering assignment by means of a decision shall make the assigned numbering available to entities cooperating with its telecommunications network as well as entities providing telecommunications services, at their request, based on a written agreement on making the numbering available or an agreement referred to in Article 31.

2. An agreement on making the numbering available may define conditions for the use of the numbering made available.

3. The conclusion of an agreement on making the numbering available shall be denied in the absence of numbering or if the making available of such numbering could hinder or limit the activities of an entity which received a numbering assignment.

3a. An entity which makes available the assigned numbering shall submit information to the President of UKE with regard to numbering ranges made available according to the procedure referred to in paragraph 1, within 14 days of making the numbering available.

4. The provisions of Articles 27 to 31 shall respectively apply to this agreement.

**Article 129.** 1. The 112 number shall be a single emergency number for all statutory emergency services.

2. Numbers beginning with 116 shall be assigned to provide services of social value and the 116000 number shall operate as a hotline to report cases of missing children.

3. The Minister competent for communications shall take action in the field of increasing social awareness and knowledge of the 116 number.

**Article 130.** The provisions of Articles 126 and 128 shall respectively apply to the assignment, denial or withdrawal of an assignment of subscriber identification signs and the granting or refusal of their availability.

**Article 131.** 1. An entity which received a numbering assignment may make any necessary modifications in numbering for specific areas of its public network, or modifications to individual subscriber numbers in this network, in the case of a modification to an assignment of a numbering range or re-construction or extension of an operated public network.

2. Planned numbering modifications, for specific telecommunications network areas, should be publicly announced by an entity which receives a numbering assignment at least 90 days before any implementation of modifications.

3. An entity which receives a numbering assignment shall notify in writing the subscribers who have made available their data referred to in Article 60a (1a) with regard to planned

modifications to their individual numbers and with regard to their new numbers, at least 90 days before the implementation of this modification. A shortening of this period shall require the consent of the President of UKE.

4. An entity which receives a numbering assignment shall provide automatic verbal information with regard to the implemented numbering modifications referred to in paragraphs 1-3 free of charge, available under the previous numbers for a period of at least 12 months.

## **PART IVa**

### **Multiplex operator and access to a multiplex**

**Article 131a.** 1. A multiplex operator shall be obliged to:

- 1) put and broadcast or re-broadcast in a multiplex radio and television programmes from broadcasters with a licence for distribution of programmes in this multiplex;
- 2) ensure access to a multiplex for a broadcaster who has received a licence for distribution of radio or television programmes by means of digital terrestrial broadcasting in this multiplex, under equal and non-discriminating terms;
- 3) ensure uninterrupted digital transmission of multiplex signals, unless there is a pause caused by technical reasons or the broadcaster ceased to provide the programme.

2. The terms shall be deemed as discriminating if the multiplex operator offers the same access service to the broadcaster under different terms than those previously offered to another broadcaster and where there are no legitimate reasons on the part of the multiplex operator to change its offer.

**Article 131b.** 1. The multiplex operator shall be obliged to hold negotiations for concluding an agreement on access to the multiplex, at the broadcaster's request, in order to provide the broadcaster with access to the multiplex.

2. Information obtained in connection with negotiations may only be used in line with its intended purpose and is subject to the obligation of confidentiality.

**Article 131c.** 1. The multiplex operator and the broadcaster shall settle the terms and conditions for access to the multiplex and related cooperation in an agreement for access to the multiplex concluded in writing.

2. The multiplex operator shall commit itself in an agreement for access to the multiplex to provide the broadcaster with access to the multiplex at a charge and to incur expenses due to providing multiplex signal transmission services, while the broadcaster shall commit itself to cooperate with the multiplex operator, in particular by making its television programme available.

3. An agreement on access to the multiplex should include provisions regarding, at least:

- 1) technical conditions for access to the multiplex;
- 2) settlements related to the provision of access to the multiplex;
- 3) procedure to be followed in the case of modifications to the agreement;
- 4) the conditions for termination of an agreement;
- 5) duration of an agreement;
- 6) manner and level of the multiplex operator's remuneration;
- 7) list of documents that the parties to an agreement are obliged to obtain or deliver in order to implement this agreement, together with time limits within which this should take place.

**Article 131d.** 1. The President of UKE may, at a written request from each of the parties to negotiations for concluding an agreement on access to the multiplex, specify, by means of a

resolution, the time limit for completing these negotiations, not longer than 90 days from the day of submitting a request for concluding an agreement on access to the multiplex.

2. Where negotiations for the conclusion of an agreement on access to the multiplex are not taken up, access to the multiplex is refused or the agreement on access to the multiplex is not concluded within the time limit referred to in paragraph 1, or the agreement is not concluded within 90 days of the day of submission of the request for the conclusion of such an agreement, any of the parties may submit to the President of UKE a request for issuance of a decision resolving contentious issues or for determining the conditions of cooperation.

3. A request for issuance of a decision resolving contentious issues or for determining the conditions of cooperation should include a draft agreement on access to the multiplex, including the positions of the parties in the scope specified in this Part of the Act and the marking of those areas in the agreement as to which the parties were not able to reach an agreement.

4. The parties shall be obliged to submit to the President of UKE, at his/her request, within 14 days, their positions on divergences and the documents necessary to consider the request.

**Article 131e.** 1. The President of UKE shall take a decision resolving contentious issues or determining the conditions of cooperation within 90 days of the day of submission of the request for issuance of a decision resolving contentious issues or determining the conditions of cooperation, taking account of the following criteria:

1) the nature of contentious issues identified and practical feasibility to implement solutions regarding technical and economic conditions of access to the multiplex;

2) obligations of the multiplex operator;

3) the necessity to ensure:

a) non-discriminating and equal conditions for access to the multiplex,

b) the development of a competitive market for media services;

2. A decision referred to in paragraph 1 with respect to the obligations and tasks related to programme content, including must-carry, shall be issued in agreement with the National Broadcasting Council, taking account of non-economic national interests regarding culture, language and media pluralism.

3. A decision referred to in paragraph 1 shall replace an agreement on access to the multiplex within the scope covered by this decision.

4. In cases where the interested parties conclude an agreement on access to the multiplex, the decision referred to in paragraph 1 shall expire by the virtue of law in the part covered by the agreement.

**Article 131f.** 1. The President of UKE, at a party's request, may, by means of a decision, modify the contents of an agreement on access to the multiplex or oblige the parties to this agreement to modify it, in cases where this is justified by the need to ensure access to the multiplex under equal and non-discriminating terms.

2. A decision referred to in paragraph 1 with respect to the obligations and tasks related to programme content, including must-carry, shall be issued in agreement with the National Broadcasting Council, taking account of non-economic national interests regarding culture, language and media pluralism.

**Article 131g.** The provisions of this Part of the Act shall not apply if broadcasters who have received a frequency licence under Article 114 (6) are the multiplex operator.

**PART V**  
**Digital radio and TV transmissions**

**Article 132.** 1. Public telecommunications networks used for digital radio and TV transmissions as well as digital receivers and other equipment used for receiving digital radio and TV transmissions should ensure interoperability of digital radio and TV transmission services, in particular by the application of an open application programme interface.

2. Public telecommunications networks used for providing digital TV services should meet technical and operational requirements which allow for the provision of wide-screen TV services. Telecommunications undertakings which receive programmes and services in the wide-screen format shall broadcast them without any change from the wide-screen format to another format.

2a. Digital receivers and other equipment used for receiving digital TV transmissions should support:

- 1) reception of non-coded digital TV transmissions;
- 2) decoding by means of a single algorithm of coded digital TV transmissions specified in the provisions issued under paragraph 3.

2b. The provision of paragraph 2a (1) shall not apply to digital receivers which are rented or leased, unless the parties to an agreement decide otherwise.

3. The Minister competent for communications shall specify, by means of an ordinance, technical and operational requirements for digital receivers, having regard to ensuring their interoperability and facilitating access for disabled people.

4. The Minister competent for communications shall specify, by means of an ordinance, technical and operational requirements for consumer equipment used to receive digital radio transmissions, having regard to efficient frequency use and ensuring the conditions for universal reception of radio programmes in the territory of the Republic of Poland.

**Article 133.** 1. Telecommunications undertakings providing conditional access systems should offer broadcasters technical services, enabling the reception of digital radio and TV transmissions using decoders installed in the networks or at a subscriber's place, under equal and non-discriminating terms.

2. Telecommunications undertakings providing conditional access systems shall run separate accounting for these activities.

3. The Minister competent for communications may specify, by means of an ordinance:

- 1) technical and operational requirements for conditional access systems, having regard to ensuring full control over digital radio and TV transmissions using conditional access systems by telecommunications undertakings, and guided by the aspiration to create conditions for effective provision of services using these systems;

- 2) a detailed scope of technical services offered to broadcasters under the terms referred to in paragraph 1 by telecommunications undertakings which provide conditional access systems in order to allow the reception of digital radio and TV transmissions using decoders installed in the networks or at a subscriber's place.

**Article 134.** Having carried out a market analysis under Article 21, the President of UKE may, by means of a decision, withdraw an obligation with respect to a telecommunications undertaking without significant market power in the market for conditional access systems to provide access to this facility under the terms referred to in Article 133 (1), having completed consultation and consolidation proceedings.

**Article 135.** 1. Owners of industrial property rights including conditional access systems and services provided via these systems shall conclude license agreements with manufacturers of consumer equipment intended for receiving digital radio and TV transmissions under equal and non-discriminating conditions.

2. The provisions of license agreements referred to in paragraph 1 should not prohibit, limit or discourage from including in the equipment referred to in paragraph 1:

- 1) a common interface allowing for connection to other conditional access systems,
- 2) elements relevant for other conditional access systems if a licensee observes conditions which guarantee the safety of transactions performed by operators of conditional access systems

- taking account of technical and economic factors.

3. The provisions of Industrial Property Law of 30 June 2000 (Journal of Laws of 2003 No. 119 item 1117 and of 2004 No. 33, item 286) shall apply to license agreements within the scope not regulated by the provisions of paragraphs 1 and 2.

**Article 136.** 1. The President of UKE may, by means of a decision, impose an obligation on telecommunications undertakings to provide access to the following associated facilities:

- 1) an application program interface,
- 2) an electronic programme guide

- in order to ensure access to digital radio and TV transmissions for end users.

2. The provisions on consultation and consolidation proceedings shall apply to a decision referred to in paragraph 1.

3. The President of UKE shall issue a decision referred to in paragraph 1, guided by the principle of equality and non-discrimination.

**Article 136a.** 1. The President of UKE shall resolve in contentious issues resulting from the agreement on multiplex signal transmission by means of a decision, at the request of a multiplex operator or a broadcasting network operator.

2. The President of UKE may issue a decision specifying the conditions for cooperation at the request of one of the parties before a dispute is finally settled.

## **PART VI**

### **Infrastructure, telecommunications equipment and radio equipment**

#### **Chapter 1**

##### **Telecommunications infrastructure**

**Article 137.** 1. Operators shall provide the President of UKE and other interested entities with technical specifications of applied network termination points, radio interfaces and their changes before telecommunications services to be provided using these network termination points or radio interfaces become available to users.

2. Technical specifications referred to in paragraph 1 should include enough detail to allow the design of telecommunications terminal equipment capable of using all services provided via a given network termination point or a radio interface and include, in particular, information which allows manufacturers to perform tests allowing the verification as to whether telecommunications terminal equipment meets relevant essential requirements.

**Article 138.** 1. The President of UKE shall collect and analyse information with regard to technical characteristics of interconnection interfaces used in public telecommunications networks.

2. Where the analysis of information referred to in paragraph 1 shows that there is a risk to interoperability of telecommunications services, the President of UKE shall draw up proposals for technical solutions designed to remove such risk, taking account of the possibility of performing obligations referred to in Article 32 (2) to (4), and submit them to the Minister competent for communications.

3. The Minister competent for communications may specify, by means of an ordinance, technical requirements for interfaces referred to in paragraph 1, having regard to the need to ensure telecommunications services interoperability and guided by international regulations.

4. A draft resolution referred to in paragraph 3 shall be subject to the provisions on consolidation proceedings.

**Article 139.** 1. A telecommunications undertaking shall have the obligation to allow other telecommunications undertakings, entities referred to in Article 4 and local government units performing activities referred to in Article 3 (1) of the Act of 7 May 2010 on supporting the development of telecommunications networks and services, access to property, including access to buildings, and telecommunications infrastructure, consisting in particular in:

1) the establishment, operation, supervision and maintenance of telecommunications equipment, where the performance of these activities without access to property and telecommunications infrastructure is impossible or unviable from the perspective of country planning, human health, environmental protection or public safety and order;

2) the use of an existing telecommunications connection or the existing telecommunications installation in the building, if duplicating that infrastructure would be economically unprofitable or technically impossible;

3) deployment of a telecommunications connection or installation in the building, if it is not possible to use the existing telecommunications connection or the existing telecommunications installation or there is no telecommunications connection or no telecommunications installation in that building.

1a. The President of UKE may call a telecommunications undertaking to present information on conditions of ensuring access referred to in paragraph 1.

1b. After presentation of information referred to in paragraph 1a, the President of UKE, guided by the need to ensure effective competition, may, by means of a decision, specify the conditions of ensuring access referred to in paragraph 1.

1c. A telecommunications undertaking for whom a decision specifying the conditions of ensuring access was issued, shall have the obligation to conclude agreements referred to in paragraph 2 under the terms and conditions that are not worse than those specified in that decision.

2. The conditions of access within the scope referred to in paragraph 1 shall be specified by telecommunications undertakings in an agreement, which should be concluded within 30 days of the day of applying for its conclusion.

3. (deleted).

4. The provisions of Articles 27-30, Article 31 (1), Article 33 shall apply to ensuring access referred to in paragraph 1. The President of UKE shall specify in a decision detailed conditions concerning settlements for the provision of access, taking account of the level of risk in a given case.

**Article 140.** (deleted).

**Article 141.** (deleted).



**Article 142.** Public administration authorities controlling an operator or owning a controlling share of an operator shall ensure structural separation of functions associated with the performance of their tasks and ownership rights regarding this operator.

## **Chapter 2**

### **Use and operation of radio equipment**

**Article 143.** 1. Subject to Article 144, Article 144a and Article 144b, the use of radio equipment shall require the possession of a radio licence, hereinafter called the “licence”.

2. A licence shall be issued by the President UKE, by means of a decision.

3. The procedure for the issuance of a licence shall be initiated at the request of an interested entity.

4. An entity holding a general exclusive frequency licence or an authorised entity or an entity to which the frequencies were leased or transferred for use under Article 122<sup>1</sup>, unless a decision referred to in paragraph 5 of that Article was issued, may request the issuance of a radio licence using the frequencies covered by a general exclusive frequency licence for the period of its validity.

4a. In the case an agreement for lease or an agreement for transfer of frequencies for use referred to in Article 122<sup>1</sup> expires or terminates, the President of UKE shall find that the licence issued under paragraph 4 expires.

5. The Minister competent for communications may specify, by means of an ordinance, the template and procedure for the submission of a request for issuing a licence as well as the types of documents attached which are required to decide the case, taking account of the specificity of radiocommunication services, telecommunications networks or telecommunications services in which the radio equipment is to be used.

6. In the case of radio frequencies which have been allocated in the National Frequency Allocation Table or in the frequency management plan, a decision should be made within 6 weeks of the day the request is submitted.

7. The provision of paragraph 6 shall not apply to events requiring international coordination or resulting from international agreements binding for the Republic of Poland in the field of radio frequency or orbital position use.

**Article 144.** 1. The use of radio equipment solely for reception shall not require a licence.

2. A licence shall not be required for the use of a transmitter or a transceiver:

1) used by a foreign aircraft, maritime vessel or inland waterway vessel, in line with international radiocommunication regulations, where the equipment was permitted for use by a competent authority;

2) used, in line with international regulations, in the amateur radiocommunication service by a foreigner or a Polish citizen permanently residing abroad during his/her stay in the territory of the Republic of Poland, if not longer than for 90 days at a time;

3) which is terminal equipment:

a) connected to a telecommunications network termination point, excluding equipment used in aviation, maritime or inland waterway service,

b) used for maintaining communications with a foreign vehicle, aircraft, maritime or inland waterway vessel, remaining in the territory of the Republic of Poland for a short period of time or during transit, which is permanently mounted to this vehicle, aircraft or vessel and uses internationally agreed frequency ranges;

4) using the frequency ranges granted under a general exclusive frequency licence to an entity authorised to use the frequency, if a general exclusive frequency licence provides for an

exemption from the obligation to obtain a radio licence and specifies the conditions for frequency use;

5) which is class 1 equipment referred to in Article 154 (3).

3. The Minister competent for communications may, by means of an ordinance, extend the range of transmitters and transceivers which may be used without a licence, guided by the principle of increasing the number of types of this equipment, taking account of the needs of harmonious spectrum management, and define:

1) the conditions for using radio transmitters or transceivers which may be used without a licence, in particular:

- a) frequency ranges used by that equipment,
  - b) maximum radiated power or maximum field strength,
  - c) area of equipment use;
- 2) types of radiocommunication services,

**Article 144a.** 1. The President of UKE, by means of a decision, at a request of an interested entity, may authorise temporary use of radio equipment in order to ensure occasional transfer of information for the period not longer than 30 days.

2. If frequencies are allocated for use as governmental, the President of UKE shall issue a decision referred to in paragraph 1, having sought an agreement of the Minister of National Defence. The Minister of National Defence shall express agreement in a form of a resolution which is not subject to complaint, within the time limit not longer than 7 working days of the date of submitting the request to the Minister of National Defence. Failure to issue a resolution within the time limit referred to in the previous sentence shall be treated as having no objections to the decision issued.

3. The President of UKE when issuing the decision referred to in paragraph 1 shall be guided by objective, transparent, non-discriminatory and proportional criteria.

4. A request referred to in paragraph 1 may be submitted in electronic form.

5. A request referred to in paragraph 1 shall be accompanied by an original or a copy of:

- 1) copy of an entrepreneurs register or a business activities register or another relevant register maintained by a Member State of origin, unless a given entity is listed in the Central Records and Information on Business Activities referred to in the Act of 2 July 2004 on freedom of economic activity (Journal of Laws of 2010 No. 220, item 1447, with subsequent amendments);
- 2) a confirmation that the equipment complies with essential requirements;
- 3) a power of attorney - if the party acts by proxy;
- 4) proof of payment for the right to use frequencies.

6. The documents referred to in paragraph 5 may be submitted in the English language. The provision of Article 33 § 2 and 3 as well as Article 76a § 2 of the Act of 14 June 1960 Code of Administrative Procedure shall not apply.

7. The obligation to pay the fee referred to in Article 185 (3a) arises upon submission of a request referred to in paragraph 1. The fee shall be paid upon the moment when the payment obligation arises.

8. In a decision referred to in paragraph 1, the President of UKE shall specify:

- 1) the type, specific type and the radio equipment manufacturer's name relevant to a decision;
- 2) an entity entitled, together with its seat and address;
- 3) conditions of frequency use;
- 4) conditions for using radio equipment, in particular the type of service in which the equipment is used;
- 5) duration of a decision;

6) the start-up date for the use of the frequencies;

9. The President of UKE shall refuse to issue a decision referred to in paragraph 1 or shall withdraw that decision, if one of the circumstances referred to in Article 123 (7) point 1 to 3 occurs.

**Article 144b.** 1. The President of UKE, at the request of an interested entity, may allow, by means of a decision, temporary use of transmitters or transceivers in order to conduct tests, trials or experiments related to the launch of new technologies, provided that the objective and time schedule of these tests, trials or experiments is presented.

2. The President of UKE shall issue a decision referred to in paragraph 1 relating to the use of radio equipment for broadcasting or re-broadcasting of radio or television programmes in agreement with the Chairperson of KRRiT.

3. An entity holding a general exclusive frequency licence shall be also a party to the proceedings on the issuance of a decision referred to in paragraph 1.

4. The President of UKE, by means of a decision, shall refuse an authorisation or shall withdraw an authorisation if one of the circumstances referred to in Article 123 (7) point 1 to 3 occurs.

5. An authorisation may not be issued for a period longer than one year.

6. An authorisation, at the request of an interested entity, may be extended on a single basis for a period not longer than one year. The President of UKE shall refuse to prolong an authorisation if a report referred to in paragraph 7 is not submitted timely.

7. An entity which has obtained an authorisation shall have the obligation to submit to the President of UKE a report on conducted tests, trials or experiments within the time limit of 14 days of their completion.

8. A report referred to in paragraph 7, subject to the provisions on protection of industrial and intellectual property, should include in particular:

- 1) specification of radio equipment used for tests, trials or experiments and its parameters;
- 2) description of a methodology of tests, trials or experiments and their results;
- 3) conclusions resulting from conducted tests, trials or experiments.

9. The provision of Article 144a (4), (5), (7) and (8) shall apply.

**Article 144c.** 1. The use of a transmitter or a transceiver, not requiring a licence under Article 144(2) (4) shall be subject to entry in the register of radio equipment used without a licence, hereinafter referred to as the "equipment register".

2. The President of UKE shall keep the equipment register.

3. The President of UKE shall make an entry in the equipment register on the basis of a request submitted by an entity entitled to have the frequency at its disposal which contains the following data:

- 1) the name (company) of an entity entitled to have the frequency at its disposal, its seat and address;
- 2) specification of legal form of an entity entitled to have the frequency at its disposal;
- 3) reference number of a decision on a general exclusive frequency licence;
- 4) name, surname, address and telephone number of a person authorised to contacts on behalf of an entity entitled to have the frequency at its disposal;
- 5) conditions for the use of frequencies referred to in Article 146 (1) (1);
- 6) the anticipated start-up date of the equipment use.

4. Together with a request an entity entitled to have the frequency at its disposal shall submit the following statement: "Being aware of penal responsibility for the submission of a false statement resulting from Article 233 § (6) of the Penal Code, I hereby declare that:

- 1) the information included in the request for entry in the equipment register is true;

- 2) I am aware of and fulfil the conditions of use of radio equipment referred to in the request, as stated in the Telecommunications Act of 16 July 2004;
- 3) radio equipment referred to in the request fulfils the relevant essential requirements.".
5. The statement referred to in paragraph 4 should also include:
  - 1) the name (company) of an entity entitled to have the frequency at its disposal, its seat and address;
  - 2) the indication of the place and date of submitting the statement;
  - 3) the signature of a person authorised to represent an entity entitled to have the frequency at its disposal with the indication of its name and surname and performed function.
6. The President of UKE shall make an entry in the equipment register within 7 days of receiving the request together with the statement referred to in paragraph 4.
7. Where the President of UKE fails to make an entry in the register within the time limit referred to in paragraph 6, and 14 days have passed from the day of the receipt of the request for entry in the equipment register, an entity entitled to have the frequency at its disposal may start using that frequency by means of equipment referred to in the request, having notified the President of UKE thereof in writing. This does not apply to a situation where the President of UKE has requested an entity entitled to have the frequency at its disposal to supplement the request within the time limit referred to in paragraph 6.
8. Article 64 of the Act of 14 June 1960 Code of Administrative Procedure shall apply to the request for entry in the equipment register.
9. The request for entry in the equipment register, the attachments to this request and the entry in the equipment register shall not be subject to stamp duty.
10. The equipment register shall include in particular:
  - 1) the consecutive number of the entry;
  - 2) the date of receipt of the request for entry in the register and the entry date;
  - 3) data referred to in paragraph 3.
11. The equipment register shall be kept electronically.
12. The equipment register shall be public and shall be published on the UKE BIP website.

**Article 144d.** 1. An entry may be deleted from the equipment register, if the circumstances referred to in Article 123 (1) (1)-(3) occur.

2. An entry shall be deleted from the equipment register where a general exclusive frequency licence expires.

**Article 145.** 1. A licence shall specify:

- 1) an entity entitled, together with its seat and address;
- 2) the type, specific type and the radio equipment manufacturer's name relevant to a licence;
- 3) conditions of frequency use;
- 4) conditions of equipment use, in particular the type of a radiocommunication service or a telecommunications network the equipment may be used in;
- 5) the date of expiry;
- 6) the start-up date for the use of the frequencies, however not longer than 12 months from the issuance of a licence.
- 7) (deleted).
2. A licence may specify the conditions of equipment use and user obligations in emergencies.
3. A licence may include an assignment of identification signals or call signs.
4. A licence shall entitle its holder to use the frequencies, identification signals and call signs included in a licence.
5. The President of UKE may oblige an entity in its licence to inform about pauses in the frequency usage lasting longer than 14 days.

6. The President of UKE may withdraw a licence if an entity fails to fulfil its obligation referred to in paragraph 5.

7. The provisions of paragraph 5 and 6 are not applicable to licences in amateur radiocommunication service.

**Article 146.** 1. The conditions of frequency use should specify in particular:

1) for earth radio equipment or a general exclusive frequency licence for the purposes of providing telecommunications services using such equipment:

- a) the frequency or channel or band boundaries, or channel numbers,
- b) the location of the equipment or the area of its relocation,
- c) the radiated power or output power,
- d) the polarization, altitude of installation and transmitting antenna radiation characteristics,
- e) the signal type and technical parameters of its emission;

2) for an earth satellite station or a general exclusive frequency licence for the purposes of providing telecommunications services using a radio transceiver located on the Earth's artificial satellite:

- a) the name of a used satellite and its position,
- b) the location of an earth satellite station or its area of relocation accordingly,
- c) the frequency or limit frequencies of frequency bands or frequency channels, or channel numbers, used to transmit signals in space-Earth and Earth-space directions,
- d) the signal type and technical parameters of its emission.

2. The conditions of frequency use may specify the start-up date for the use of the frequencies.

**Article 147.** 1. Articles 122 and 123 shall respectively apply to licence withdrawal or modification.

2. Article 124 shall apply to a denial of licence issuance.

3. The President of UKE may also withdraw a licence or modify the conditions of frequency use in the event of:

- 1) finding that the use of radio equipment in accordance with the radio licence interferes with the operation of other equipment or telecommunications networks;
- 2) a modification in the National Frequency Allocation Table concerning the allocation of frequencies included in a radio licence;
- 3) failure to start using the frequencies covered by a licence within 12 months of the day of issuing a licence or the start-up date for the use of the frequencies as specified in a licence.

4. The President of UKE may also modify the conditions of frequency use when:

- 1) frequencies included in a radio licence are used to a small extent or ineffectively;
- 2) radio equipment operation is interfered by other equipment or telecommunications networks.

5. A radio licence shall expire by virtue of the law with the expiration of a general exclusive frequency licence.

**Article 148.** 1. Subject to paragraph 4, a radio licence shall be issued to an entity which meets the requirements defined in the Act, and where:

- 1) the circumstances referred to in Article 123 (7) (1)-(3) do not occur;
- 2) frequencies included in a request:

- a) are available,
- b) have been allocated in the National Frequency Allocation Table for a requested radiocommunication service, and a frequency management plan provides for their management in consistency with the request,

- c) may be used by radio equipment without causing harmful electromagnetic disturbances or collisions with general exclusive frequency licences, radio licences or decisions on the right to use the frequencies that have been granted to other entities,
  - d) have been internationally agreed within the scope and form specified in international radiocommunication regulations or agreements to which the Republic of Poland is a party, if there is a possibility of causing harmful interference outside the borders of the Republic of Poland,
  - e) will be used effectively;
- 3) equipment operating based on that decision may be protected against harmful interference;
- 4) an applicant shall submit:
- a) a confirmation that the equipment complies with essential requirements,
  - b) a document confirming that a satellite operator has agreed for a transponder to be used in the case of a licence for an earth station in the satellite service.
2. An obligation referred to in paragraph 1 (4) (a) shall not apply to equipment intended for an exclusive use in amateur radiocommunication service not subject to commercial offer.
3. Radio licences for radiocommunication services other than amateur radiocommunication service shall be issued for a maximum of 10 years.
4. The Minister competent for communications shall specify, by means of an ordinance, for amateur radiocommunication service:
- 1) types of radio licences,
  - 2) requirements essential for obtaining a radio licence,
  - 3) the date of expiry of radio licences;
  - 4) method of identifying the station
- having regard to the type of radio operator's certificate in amateur radiocommunication service held by an applicant.

**Article 148a.** The President of UKE shall publish on the UKE BIP website information about licences issued, decisions on a general exclusive frequency licence and decisions authorising temporary use of radio equipment referred to in Article 144a and Article 144b, covering:

- 1) the name (company) of an entitled entity;
- 2) the frequency range;
- 3) the area where the frequencies may be used;
- 4) validity period of a decision.

**Article 148b.** 1. The use of a transmitter or a transceiver for communications in a terrestrial or satellite system by diplomatic missions, consular offices, foreign special missions and representations of international organizations using the privileges and immunities based on acts, agreements and international customs, with their seats in the territory of the Republic of Poland shall require the consent of the President of UKE issued in agreement with the minister competent for foreign affairs and shall be permitted only within the scope related to diplomatic activities of these entities, unless relevant international agreements to which the Republic of Poland is a party provide otherwise or the principle of reciprocity requires so.

2. A request for consent shall be submitted to the President of UKE via the minister competent for foreign affairs.
3. A request for consent should include:
- 1) address of a radio station installation;
  - 2) an identification sign or a call sign of the radio station;
  - 3) hours and time of radio station operation;

- 4) geographic coordinates and names of cities with which radio communications will be maintained;
- 5) output power of a transmitter or a transceiver of the radio station;
- 6) transmission and reception frequencies of the radio station;
- 7) type of emission;
- 8) technical data of a transmission and reception antenna (gain, polarisation, maximum radiation azimuth, elevation angle, vertical and horizontal radiation pattern, altitude in relation to earth);
- 9) the start-up date for the use of the frequencies.

4. The President of UKE shall issue, by means of a decision, a consent to using a transmitter or a transceiver, if the device operates without interference and causes no harmful interference to the operation of other equipment. The decision shall specify the conditions for radio equipment use. If it is found that such interference may occur, the President of UKE shall not issue its consent and inform the requesting party of the need to modify the request indicating the scope of modifications.

5. A change to the data referred to in paragraph 3 shall require a new consent of the President of UKE. The provision of paragraph 2 shall apply.

6. The President of UKE shall define a time limit for the equipment user to adjust the operating conditions of a device to the conditions specified in a decision if it is found that an entity referred to in paragraph 1 uses the device inconsistently with the conditions as stated in the consent issued.

7. The President of UKE, by means of a decision, in agreement with the minister competent for foreign affairs, shall withdraw the consent if the operating conditions of a device are not adjusted within an indicated time limit.

**Article 149.** 1. The operation of a radio transmitter or a transceiver used in aeronautical, maritime and inland waterway radiocommunication, as well as in amateur radiocommunication service, shall require a radio equipment operator's certificate.

2. The provision of paragraph 1 shall not apply to individuals performing duties within the tasks of organisational units or organisational entities subordinate to the Minister of National Defence or supervised by him/her, or to entities referred to in Article 4 point (3).

**Article 150.** 1. The President of UKE shall issue a radio equipment operator's certificate based on a positive result of an exam which tests the knowledge and skills of an individual applying for a radio equipment operator's certificate and after the applicant has documented the required practice.

1a. A person holding a radio equipment operator's certificate in maritime service may apply for its renewal. The person should:

- 1) submit a request for issuing the certificate;
- 2) demonstrate documented work experience at sea involving functions relevant for a particular certificate, for a period of at least 12 months within 5 years prior to the certificate's expiry date or pass an exam within the scope specified in an ordinance issued under paragraph 4, in the absence of documented work experience at sea.

2. Examinations for individuals applying for a radio equipment operator's certificate shall be carried out by a commission appointed by the President of UKE, and for an aeronautical radiocommunications service by the President of the Civil Aviation Authority. The President of UKE may delegate the task of conducting exams:

- 1) in amateur radiocommunications service - to an organization associating radio amateurs.

2) in maritime and inland waterway services - to the Central Maritime Examination Committee or central examination committee established by a director of an inland waterway office specified by the minister competent for transport.

3. Fees shall be collected for the carrying out of the examination and for issuing a radio equipment operator's certificate.

4. The Minister competent for communications, in agreement with the Minister competent for transport and the Minister competent for maritime issues shall specify by means of an ordinance:

1) types and templates for radio equipment operator's certificates, the scope of examination requirements, as well as the scope and time for essential training and practice,

2) the time limit for submitting a request for issuing a radio equipment operator's certificate or for its renewal, examination procedure, including repeat examinations, the manner of appointing the examination commission, as well as the amount of fees for the carrying out of the examinations and the issuance of certificates, guided by the principle that they should not be a barrier to individuals interested in operating radio equipment

- having regard to international radiocommunication regulations as well as international regulations.

**Article 151.** Individuals who have a relevant radio equipment operator's certificate issued by the President of UKE or a competent foreign authority may operate radio transmitters or transceivers used for the needs of aeronautical radiocommunication or maritime and inland waterway radiocommunication in the territory of the Republic of Poland, in accordance with international radiocommunication regulations.

### **Chapter 3**

#### **Requirements for telecommunications terminal equipment and radio equipment**

**Article 152.** The provisions of the Conformity Assessment System Act of 30 August 2002 (Journal of Laws of 2004 No. 204, item 2087 with subsequent amendments<sup>4</sup>) and the Electromagnetic Compatibility Act of 13 April 2007 shall apply to the requirements concerning telecommunications terminal equipment and radio equipment, including those concerning their display in fairs, exhibitions and demonstrations, as well as the inspection of this equipment within the scope not regulated in this chapter.

**Article 152a.** The provisions of the Act of 17 November 2006 on Conformity Assessment for products intended for the purposes of defence and state security (Journal of Laws No. 235, item 1700) shall apply to the requirements regarding apparatus, including telecommunications terminal equipment and radio equipment intended for the purposes of defence and state security.

**Article 153.** 1. Radio equipment and telecommunications terminal equipment placed on the market or put into service should meet the requirements within the scope of:

1) health protection and user safety,

2) effective use of frequency resources or orbital resources in the case of radio equipment,

3) electromagnetic compatibility within the meaning of provisions on electromagnetic compatibility, within the scope resulting from their purpose

- hereinafter called the "essential requirements".

2. The Minister competent for communications may, according to a decision of the European Commission, and by means of ordinances, specify additional requirements within the scope of:



- 1) ensuring the protection of telecommunications confidentiality,
  - 2) protection from unauthorised use of the equipment,
  - 3) allowing access to equipment or to the network for statutory emergency services,
  - 4) adaptation for use by disabled persons,
  - 5) ability to cooperate with other telecommunications equipment used in a telecommunications network or connected to it, in particular so as not to damage the telecommunications network or interfere with its functioning
- which should be met by the equipment regardless of essential requirements, and may specify the time limit for using equipment not complying with the requirements specified in an ordinance that has been placed on the market or put into service, having regard to the proper functioning of a telecommunications network and being guided by international regulations.
3. The equipment referred to in paragraph 1 shall be subject to mandatory conformity assessment procedures.
4. The provision of paragraph 3 shall not apply to:
- 1) equipment intended for use solely in amateur radiocommunication service, not being part of commercial offer, including kits of components for equipment assembly and equipment adapted by radio amateurs for their own needs for use in amateur radiocommunication service;
  - 2) equipment adapted solely for receiving radio and TV signals;
  - 3) wires and cables intended for electrical and telecommunications installations;
  - 4) radiocommunication equipment subject to maritime equipment regulations;
  - 4a) equipment intended for use in civil aviation, excluding equipment intended for air traffic management;
  - 5-7) (deleted).

**Article 154.** 1. Radio equipment subject to restrictions with regard to placing on the market or putting into service in Member States due to its operation within a frequency band whose use has not been harmonized in the territory of these states, shall constitute class 2 equipment and should be marked with a warning sign by a manufacturer or its authorised representative before it is placed on the market or put into service.

2. The provision of paragraph 1 shall also apply to radio equipment subject to restrictions with regard to placing on the market or putting into service in Member States, due to:

- 1) effectiveness of frequency band use;
- 2) elimination of harmful electromagnetic disturbances;
- 3) public health protection.

3. Telecommunications terminal equipment and radio equipment not subject to restrictions with regard to placing on the market or putting into service in Member States shall constitute class 1 equipment.

4. The President of UKE shall publish, on the UKE website, a sample list of radio equipment constituting class 1 equipment.

5. The Minister competent for communications shall specify, by means of an ordinance, the manner and specimen marking with warning signs for class 2 radio equipment, having regard to the applicable European Union regulations<sup>5)</sup>.

**Article 155.** 1. An entity that places telecommunications terminal equipment or radio equipment on the market or puts it into service shall provide the President of UKE, at every request, with an explanation concerning this piece of equipment, its purpose and technical and operational qualities, as well as indicate the scope of its use, subject to paragraph 2.

2. An entity that places radio equipment on the market shall notify the President of UKE of its intention to place this equipment on the market at least 28 days prior to the planned placing

date. This notification should include essential information concerning the purpose, technical and operational qualities and the scope of use of radio equipment that is placed on the market.

3. The Minister competent for communications shall specify, by means of an ordinance:

1) types of radio equipment subject to an obligation defined in paragraph 2, considering the frequency bands used by this equipment;

2) the manner, scope and procedure for the provision of information referred to in paragraph 2, including a template form for providing such information, taking account of the fact that the scope of provided information should be essential to exercise efficient supervision over radio equipment that is placed on the market.

4. The provisions of paragraphs 1-3 shall not apply to telecommunications equipment transferred for use by entities referred to in Article 4.

**Article 156.** The display in fairs, exhibitions and demonstrations of radio equipment and telecommunications terminal equipment subject to mandatory assessment of conformity with essential requirements without the declaration of conformity and the CE marking shall be permitted provided that information that the exhibited equipment may not be placed on the market or put into service before the conformity assessment procedures have been performed is placed in a visible area.

**Article 157.** (deleted).

**Article 158.** 1. A manufacturer or its authorised representative that places telecommunications terminal equipment or radio equipment on the market or puts it into service shall be obliged to provide, for inspection purposes, the documentation associated with conformity assessment for a minimum period of 10 years from the date of manufacturing the last piece of such equipment.

2. A manufacturer or its authorised representative shall attach a declaration of conformity and information with regard to the use of given telecommunications equipment to telecommunications equipment or radio equipment subject to mandatory assessment of conformity with essential requirements.

3. In relation to radio equipment, the information referred to in paragraph 2 should allow the identification of a country or a geographic area where the given equipment may be used.

4. In relation to telecommunications terminal equipment designed for connection to public network termination points, the information referred to in paragraph 2 should allow the determination of public network termination points to which the given equipment may be connected.

## **PART VII**

### **Telecommunications confidentiality and end user data protection**

**Article 159.** 1. The communications confidentiality within telecommunications networks, hereinafter called the “telecommunications confidentiality”, shall encompass:

1) data concerning the user;

2) individual message content;

3) transmission data understood as data processed for the purpose of transferring messages within telecommunications networks or charging payments for telecommunications services, including location data, which should be understood as any data processed in a telecommunications network or within the framework of telecommunications services indicating geographic location of terminal equipment of a user of publicly available telecommunications services;

- 4) location data, understood as location data beyond the data necessary for message transmission or billing;
  - 5) data relating to call attempts between specific telecommunications networks termination points, including data relating to unsuccessful call attempts meaning calls between telecommunications terminal equipment or network termination points which have been set up and not answered by an end user or aborted.
2. Knowledge, record, storage, transfer or another use of contents or data subject to telecommunications confidentiality by individuals other than the message sender and receiver shall be forbidden, unless:
- 1) this constitutes the subject of a service or is required to perform it;
  - 2) this is agreed by a sender or a receiver whom such data concerns;
  - 3) performing this action is essential to record messages and associated transmission data applied within legal business practice for the purpose of ensuring evidence for commercial transactions or for the purpose of communications in commercial activities;
  - 4) this is necessary for other reasons provided for in the Act or separate regulations.
3. With the exception of cases specified in the Act, the disclosure or processing of content or data subject to telecommunications confidentiality shall violate the obligation to keep the telecommunications confidentiality.
4. The provisions of paragraphs 2 and 3 shall not apply to messages and data public by their nature, data for a public purpose or disclosed by a ruling of a court in criminal procedure, a prosecutor's ruling or under separate regulations.

**Article 160.** 1. An entity participating in the performance of telecommunications activities within public networks and entities cooperating with it shall keep the telecommunications confidentiality.

2. Entities referred to in paragraph 1 shall maintain due diligence, within the scope justified by technical or economic reasons, while securing telecommunications equipment, telecommunications networks and data collections from disclosing the telecommunications confidentiality.

3. A person coming into possession of a message not meant to be read by him/her when using radio or terminal equipment shall keep the telecommunications confidentiality. The provisions of Article 159 (3) and (4) shall respectively apply.

4. The recording of a message acquired in a manner described in paragraph 3 by a body executing control of telecommunications activities in order to document a violation of a provision of the Act, shall not be a violation of the telecommunications confidentiality.

**Article 161.** 1. Subject to paragraph 2, content or data subject to telecommunications confidentiality may be collected, recorded, stored, elaborated, modified, deleted or made available only where these activities, hereinafter called the “processing”, refer to the service provided to a user or are necessary to perform it. Processing for other purposes shall be permissible only under the legal regulations.

2. A provider of publicly available telecommunications services shall be entitled to process the following data concerning a user who is a natural person:

- 1) surnames and first names;
- 2) parents' first names;
- 3) place and date of birth;
- 4) address of residence and correspondence address, if different to the address of residence;
- 5) personal number (PESEL) – in the case of a citizen of the Republic of Poland;

6) name, series and number of documents confirming the identity, and in the case of a foreigner who is not a citizen of a member state or of the Swiss Confederation – a passport number or a residence card number;

7) data included in documents confirming the ability to perform an obligation towards a provider of publicly available telecommunications services resulting from an agreement for the provision of telecommunications services.

3. With the exception of the data referred to in paragraph 2, a provider of publicly available telecommunications services may, with the consent of a user who is a natural person, process other data from this user in relation to the provided service, in particular a bank account number or a payment card number, as well as an electronic mail address and contact telephone numbers.

**Article 162.** 1. A telecommunications undertaking shall be responsible for the violation of the telecommunications confidentiality by entities operating on behalf of a telecommunications undertaking.

2. A telecommunications undertaking providing a service to an end user of another telecommunications undertaking shall be entitled, within the necessary scope, to receive, transfer and process data concerning this end user, as well as the data with regard to telecommunications services performed in its favour.

**Article 163.** A provider of publicly available telecommunications services shall inform a subscriber with whom an agreement for the provision of telecommunications services is concluded, as well as the remaining end users, of the scope and purpose of processing transmission data and other data concerning the subscriber or end users, as well as of the possibility of influencing the scope of this processing.

**Article 164.** End user data may be processed during the period within which an agreement remains in force, and after its termination during the period of vindication of claims or the performance of other tasks provided for in the Act or separate regulations.

**Article 165.** 1. (deleted).

2. The processing of transmission data necessary for charging subscriber fees and inter-operator settlements shall be permissible:

1) having informed a subscriber or an end user on the type of transmission data that is to be processed by a provider of publicly available telecommunications services, and on the period of this processing;

2) only until the end of the period referred to in Article 164.

3. A provider of publicly available telecommunications services shall inform a subscriber or an end user with regard to the type of transmission data which is to be processed, as well as with regard to the period of this processing for the purpose of marketing telecommunications services or providing value added services.

4. A provider of publicly available telecommunications services may process the transmission data referred to in paragraph 3 within the scope and period necessary for marketing telecommunications services or providing value added services, where a subscriber or an end user agrees to it.

5. Entities acting on behalf of public telecommunications network operators and providers of publicly available telecommunications services dealing with charging, traffic management in telecommunications networks, customer care, financial abuse detection system, telecommunications services marketing or the provision of value added services, shall be entitled to process the transmission data under paragraphs 2-4. These entities may process

transmission data only where this is necessary for the performance of the aforementioned activities.

**Article 166.** 1. In order to use location data, a provider of publicly available telecommunications services shall:

- 1) obtain the consent of a subscriber or an end user to process location data concerning this subscriber or end user, which may be withdrawn for a specific period or in relation to a specific call, subject to Article 174, or
  - 2) perform the anonymisation of this data.
2. A provider of publicly available telecommunications services shall inform a subscriber or an end user, prior to receiving its consent, with regard to the type of location data which is to be processed, with regard to the purpose and time of its processing, and whether this data is to be passed on to another entity in order to provide a value added service.
3. The following entities shall be entitled to process the data referred to in paragraph 1:
- 1) those authorised by a public telecommunications network operator;
  - 2) those authorised by a provider of publicly available telecommunications services;
  - 3) those providing a value added service.
4. Location data may be processed only where this is necessary to provide value added services.
5. (deleted).

**Article 167.** Entities operating on behalf of a telecommunications undertaking may join an ongoing call, where this is necessary to remove a failure, disturbance or is otherwise related to telecommunications network maintenance or telecommunications service provision, provided that participants to the call are informed with regard to it.

**Article 168.** 1. A provider of publicly available telecommunications services shall record data with regard to performed telecommunications services within the scope which allows it to determine the amount due for performing these services as well as to consider a complaint.

2. A provider of publicly available telecommunications services shall store the data referred to in paragraph 1 for at least 12 months, and in the event of a complaint being filed, for the time necessary to resolve a dispute.

**Article 169.** 1. Personal data owned by a telecommunications undertaking and included in a publicly available directory, hereinafter called the “directory”, issued in a printed or electronic form, as well as made available via information services of a telecommunications undertaking should be limited to:

- 1) a subscriber’s number or an identification sign;
  - 2) a subscriber’s surname and first names;
  - 3) the name of the city and street in the place of residence where the network termination point available to a subscriber is located - in the case of a public fixed telecommunications network, or the name of a city and the street in the place of residence - in the case of a public mobile telecommunications network.
2. Subscribers, before their data is included in a directory, shall be informed free of charge with regard to the purpose of the directory or directory enquiry service which is to include their personal data, as well as with regard to the possibility of using the directory via search functions available in its electronic form.
3. The data identifying a subscriber who is a natural person may be included in a directory only upon prior consent of the subscriber.

4. The broadening of the scope of data referred to in paragraph 1 shall require the subscriber's consent.
5. (deleted).
6. Making available data allowing an identification of subscribers other than those referred to in paragraph 3 in the directory or via telephone directory enquiry service may not violate the legitimate interest of these entities.
7. A telecommunications undertaking shall protect directories issued in an electronic form from unintended use of the data included in these directories.
8. A telecommunications undertaking shall inform a subscriber with regard to the transfer of data to other undertakings for the purpose of publishing a directory or providing a telephone directory enquiry service.

**Article 170.** A telecommunications undertaking shall be entitled to provide a directory enquiry service or to entrust this activity to another entity preserving any and all conditions and limitations provided for by the provisions of this chapter.

- Article 171.** 1. An operator of a public telecommunications network in which publicly available telephone services are provided shall provide end users with the possibility of presenting the identification of a network termination point originating the call, hereinafter called the "calling line identification presentation", before delivering the call.
2. A provider of publicly available telephone services in a public telecommunications network which allows calling line identification presentation shall provide, using simple means:
    - 1) to a calling user – the possibility to eliminate calling line identification presentation at a called user's end during connection and during the call on a single basis;
    - 2) to a calling subscriber – the possibility to eliminate calling line identification presentation at a called user's end during connection and during the call on a permanent basis at the operator of the network to which the subscriber being a party to an agreement with the service provider is connected;
    - 3) to a called subscriber – the possibility to eliminate calling line identification presentation for incoming calls and where such presentation is available before commencing the incoming call, also the possibility to block incoming calls from a subscriber or a user who has eliminated calling line identification presentation.
  3. A provider of publicly available telephone services in a public telecommunications network which provides identification of a network termination point to which the call is routed, hereinafter called the "called line identification presentation", shall provide a called subscriber with the possibility to eliminate, by simple means, called line identification presentation at a calling user's end.
  4. A provider of publicly available telephone services in a public telecommunications network which provides automatic call routing shall provide a subscriber with the possibility to block, using simple means, the automatic routing of calls to this subscriber's telecommunications terminal equipment by a third party.
  5. A provider of publicly available telephone services in a public telecommunications network shall inform subscribers that the telecommunications network used to provide these services allows calling or called line identification presentation, as well as with regard to the possibilities referred to in paragraphs 2-4.
  6. A subscriber shall not be charged any fee for using the possibilities of elimination or blocking referred to in paragraphs 2-4.
  7. Calling line identification presentation elimination may be cancelled:

1) at the request of statutory emergency services, as well as entities competent for national defence, state security or public safety and order, within the scope and under the terms specified in separate regulations;

2) by a service provider ensuring connection to a public telecommunications network in which publicly available telephone services are provided, or by an operator of a network to which a subscriber as a party to an agreement with the service provider ensuring connection to a public telecommunications network in which publicly available telephone services are provided is connected, at that subscriber's request, where the applicant can prove that malicious or nuisance calls are directed to his/her telecommunications terminal equipment, in order to identify calling end users' numbers.

8. Telecommunications undertakings shall provide statutory emergency services with access to calling line identification as well as to location data, without prior consent of the subscribers or users in question, where this is necessary to allow these services to perform their tasks in the most effective manner possible.

9. Calling users' identification data shall be recorded by an operator in cases referred to in paragraph 7 at the request of:

1) services and authorities referred to in paragraph 7 point 1;

2) a subscriber referred to in paragraph 7 point 2.

10. The data referred to in paragraph 9 shall remain at the disposal of a telecommunications undertaking. The making available of this data shall be governed by Article 180d.

11. An end user that bears the costs of incoming calls may not receive data allowing complete calling number identification.

12. The President of UKE, at a justified request from an operator, may, by means of a decision, establish a transitional period for the implementation of the service to stop incoming calls from a subscriber or a user that applies the elimination of calling line identification presentation referred to in paragraph 2 (3). The President of UKE shall notify the Minister of National Defence, the Minister competent for public finances, the Minister competent for internal affairs, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency and the Head of Central Anti-Corruption Bureau with regard to the establishing of such a transitional period.

**Article 172.** 1. The use of automated calling systems for direct marketing shall be forbidden, unless a subscriber or an end user has given prior consent to do so.

2. The provision of paragraph 1 shall be without prejudice to the bans and limitations concerning the transfer of unsolicited commercial information resulting from separate acts.

**Article 173.** 1. The storing of information or the gaining of access to information already stored in the telecommunications terminal equipment of a subscriber or a user is only allowed on condition that:

1) the subscriber or the end user is directly informed in advance in an unambiguous, easy and understandable manner with regard to:

a) the purpose of storing and the manner of gaining access to this information,

b) the possibility to define the conditions of the storing or the gaining of access to this information by using settings of the software installed on its telecommunications terminal equipment or service configuration;

2) the subscriber or end user, having obtained information referred to in point 1), gives its consent;

3) the stored information or the gaining of access to this information do not cause changes in the configuration of the subscriber's or end user's telecommunications terminal equipment and in the software installed on this equipment.

2. The subscriber or end user may give its consent referred to in paragraph 1 (2) using settings of the software installed on its telecommunications terminal equipment or service configuration.
3. The conditions referred to in paragraph 1 shall not apply, if the storing of or the gaining of access to information referred to in paragraph 1 is necessary to:
  - 1) transmit communication over a public telecommunications network;
  - 2) provide a telecommunications service or services by electronic means, requested by the subscriber or an end user.
4. Entities providing telecommunications services or services by electronic means may install software on the subscriber's or end user's terminal equipment intended for using these services or use this software, provided that a subscriber or an end user:
  - 1) is directly informed, before the installation of the software, in an unambiguous, easy and understandable manner, about the purpose of installing this software, and about the manner in which the service provider uses this software;
  - 2) is directly informed, in an unambiguous, easy and understandable manner, about the manner in which the software may be removed from the end-user's or subscriber's terminal equipment;
  - 3) gives its consent for the installation and use of the software prior to its installation.

**Article 174.** Where the provisions of the Act require the consent of a subscriber or an end user, this consent:

- 1) may not be presumed or implied by a declaration of will of a different content;
- 2) may be expressed by electronic means provided that it is recorded and confirmed by the user;
- 3) may be withdrawn at any time, in a simple manner and free of charge.

**Article 174a.** 1. A provider of publicly available telecommunications services shall notify the Inspector General for Personal Data Protection of any breach to personal data, without delay, not later than within 3 days of finding the breach.

2. A personal data breach shall mean any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data processed in connection with the provision of publicly available telecommunications services by a telecommunications undertaking.

3. In the case a personal data breach may have adverse effect on the rights of a subscriber or an end user who is a natural person, the provider of publicly available telecommunications services shall also notify that subscriber or end user of the breach, without delay, not later than within 3 days of finding the breach.

4. A personal data breach which may have adverse effect on the rights of a subscriber or end user who is a natural person, shall mean a breach which in particular may result in unauthorised use of personal data, damage to property, breach to personal interests, disclosure of a bank secret or other professional secret protected by law.

5. The notification referred to in paragraph 3 shall not be required, if the provider of publicly available telecommunications services has implemented appropriate technical and organizational protection measures provided for in the personal data protection law, which prevent the reading of data by unauthorised persons, and has applied those measures to data whose protection has been breached.

6. If the provider of publicly available telecommunications services failed to notify a subscriber or an end user who is a natural person of a personal data breach, the Inspector General for Personal Data Protection may impose on the provider, by means of a decision, the



obligation to notify subscribers or end users who are natural persons of that breach, taking into account potential adverse effect thereof.

7. The notification referred to in paragraph 1 should include in particular:

- 1) description of the nature of a personal data breach and assumed risk related to that breach;
- 2) contact data of the provider of publicly available telecommunications services in order to obtain information about a personal data breach;
- 3) information about recommended measures intended to mitigate potential adverse effects of a personal data breach;
- 4) information about the measures undertaken by the provider of publicly available telecommunications services;
- 5) information whether a subscriber or an end user who is a natural person have been informed or not of a personal data breach;
- 6) description of effects of a personal data breach;
- 7) description of remedies proposed by the provider of publicly available telecommunications services.

8. The notification referred to in paragraph 3 should include:

- 1) description of the nature of a personal data breach;
- 2) contact data of a provider of publicly available telecommunications services in order to obtain information about a personal data breach;
- 3) information about recommended measures intended to mitigate potential adverse effects of a personal data breach;
- 4) information about the measures undertaken by a provider of publicly available telecommunications services;
- 5) description of effects of a personal data breach;
- 6) description of remedies proposed by a provider of publicly available telecommunications services.

**Article 174b.** The provisions of the Act of 29 August 1997 on personal data protection (Journal of Laws 2002 No. 101, item 926, with subsequent amendments) shall apply to controls exercised by the Inspector General for the Protection of Personal Data with respect to obligations referred to in Article 174a and Article 174d performed by providers of publicly available telecommunications services.

**Article 174c.** The Inspector General for the Protection of Personal Data, when addressing a request referred to in Article 19a (1) of the Act of 29 August 1997 on personal data protection to a provider of publicly available telecommunications services shall take account of the European Commission's guidelines relating to the implementation of an obligation to notify a subscriber or an end user who is a natural person of any breach to its personal data, and shall indicate the circumstances, form and method for such a notification. The Inspector General for the Protection of Personal Data may publish his/her requests on the BIP website, unless they do not contain information that is an undertaking's confidentiality.

**Article 174d.** 1. A provider of publicly available telecommunications services shall keep a register of personal data breaches, including the facts associated with the breaches, the effects and undertaken measures referred to in Article 174a (8) (4) and (6), in particular:

- 1) description of the nature of a personal data breach;
- 2) information about measures recommended by a provider of publicly available telecommunications services intended to mitigate potential adverse effects of a personal data breach;

- 3) information about the measures undertaken by a provider of publicly available telecommunications services;
  - 4) information whether the subscriber or end user who is a natural person have been informed or not of a personal data breach;
  - 5) description of effects of a personal data breach;
  - 6) description of remedies proposed by a provider of publicly available telecommunications services.
2. A provider of publicly available telecommunications services may entrust another undertaking with the maintenance of the register referred to in paragraph 1 by means of an agreement.

## **PART VII**

### **Security and integrity of telecommunications networks and services**

**Article 175.** 1. A provider of publicly available telecommunications services, and if necessary also an operator of a public telecommunications network shall take technical and organisational measures in order to ensure the security and integrity of the network, services and transmission of communication in relation to the services provided by them. The undertaken measures should ensure security levels adequate to the involved risk, taking account of the recent technological advances and the associated implementation costs.

2. A service provider shall inform users of a specific risk of breach to network security requiring measures which go beyond the technical and organizational measures taken by the service provider, as well as of the existing possibilities to ensure security and related costs.

**Article 175a.** 1. Telecommunications undertakings shall have the obligation to immediately inform the President of UKE about breaches to security or integrity of the network or services, which had a significant influence on the functioning of the network or services, about undertaken preventive activities and remedies as well as activities undertaken by the undertaking referred to in Article 175 and Article 175c.

2. The Minister relevant for communications shall specify, by means of an ordinance, a template form for submitting information referred to in paragraph 1, guided by the need to provide the President of UKE with information required to realize his/her duties properly.

**Article 175b.** 1. The President of UKE shall inform of breaches to security or integrity of the network or services the regulatory authorities of other Member States and the European Network and Information Security Agency (ENISA), if he/she finds the nature of that breach important.

2. The President of UKE shall publish on the UKE website information referred to in paragraph 1, or shall impose on a telecommunications undertaking, by means of decision, the obligation to disclose that information to the public, indicating the manner of such publication, if compatible with public interests.

3. The President of UKE, by the end of February each year, shall provide the European Commission and the European Network and Information Security Agency with the report for the preceding year, containing information about the breaches and activities referred to in paragraph 1 and 2 and in Article 175a (1).

4. Based on the information referred to in Article 175a, obtained from the telecommunications undertakings, the President of UKE annually, by 30 April, shall prepare and provide to the minister competent for communications a report on the reported risks and potential preventive measures and remedies undertaken by telecommunications undertakings.

**Article 175c.** 1. A telecommunications undertaking, subject to Article 160 (2), shall take proportional and reasonable measures in order to ensure security and integrity of the network, services and transmission of communication related to the services provided, including:

- 1) elimination of transmission of communication which poses a risk to network or service security;
- 2) interruption or limitation in the provision of a telecommunications service at the network termination point where communication posing risk to network or service security originates.

2. A telecommunications undertaking shall inform the President of UKE of taking measures referred to in paragraph 1, without delay, but not later than within 24 hours these measures are taken. The information shall include data necessary to identify the risks to network or service security and transmission of communication related to the services provided, indicating the remedies taken.

3. The President of UKE may, by means of a decision, prohibit the application of measures referred to in paragraph 1, if he/she finds that they are not proportionate or reasonable or fail to fulfil the objectives referred to in that provision.

4. If the measures referred to in paragraph 1 are taken, a telecommunications undertaking shall not be liable for non-performance or inadequate performance of telecommunications services within the scope resulting from the measures taken. The provision shall not apply if a decision referred to in paragraph 3 is issued.

5. A telecommunications undertaking may inform other telecommunications undertakings and entities active in IT security about the identified risks referred to in paragraph 1. Such information may contain the data required for identifying and limiting such risk.

**Article 175d.** The Minister competent for communications may specify, by means of an ordinance, minimum technical and organizational measures and the methods of preventing risks referred to in Article 175a (1) and Article 175c (1) which should be applied by telecommunications undertakings in order to ensure security or integrity of the network or services, taking into account the guidelines of the European Commission and the European Network and Information Security Agency within this scope.

**Article 175e.** 1. The President of UKE shall publish on the UKE website up-to-date information on:

- 1) potential risks connected with the use of telecommunications services by the subscribers;
- 2) recommended caution measures and most popular means of securing telecommunications terminal equipment against harmful software or spyware;
- 3) sample consequences of the lack of or improper securing the telecommunications terminal equipment.

2. Information referred to in paragraph 1 shall be published by telecommunications undertakings on their websites.

3. The obligation referred to in paragraph 2 may be fulfilled by publishing a link at the website to the relevant page at the website of the President of UKE or another entity responsible for network security, where the information required under paragraph 1 is available.

## **PART VIII**

### **National defence, state security and public safety and order obligations**

**Article 176.** A telecommunications undertakings shall be obliged to perform tasks and obligations related to defence, state security and public safety and order, within the scope and under the terms specified in this act and in separate regulations.

**Article 176a.** 1. A telecommunications undertaking, in order to ensure continued provision of telecommunications services or of a telecommunications network shall be obliged to take into account that:

- 1) crisis situations,
  - 2) extraordinary situations,
  - 3) immediate risks to an undertaking's infrastructure  
- may occur – hereinafter referred to as “emergency situations”.
2. A telecommunications undertaking, subject to paragraph 5 point (2) shall be obliged to keep up-to-date and agreed emergency action plans, hereinafter referred to as “plans” concerning in particular:
- 1) cooperation with other telecommunications undertakings;
  - 2) cooperation with foreign telecommunications operators, and in particular in the neighbouring countries;
  - 3) cooperation with entities and services performing tasks related to rescue, human aid as well as in favour of defence, state security, public safety and order together with entities relevant in crisis management indicated during the agreement process referred to in paragraph 3 by the authorities that agree on the plans;
  - 4) protection of telecommunications infrastructure in emergency situations and against unauthorised access;
  - 5) maintenance of continuity, and if broken, restoration of:
    - a) the provision of telecommunications services,
    - b) the provision of a telecommunications network- taking account of priority given to entities and services referred to in point 3;
  - 6) technical and organisational preparations, where limitations to telecommunications activities provided for in the act are introduced;
  - 7) method of making available telecommunications equipment referred to in Article 177 (3) by telecommunications undertakings;
  - 8) keeping registers and accumulating reserves of an undertaking or cooperation with suppliers of equipment, maintenance and repair services.
3. Subject to paragraph 5 (1) (c) a telecommunications undertaking drafting plans shall agree on their contents with the authorities referred to in paragraph 5 (1) (b).
4. Having found that there is an emergency situation or having obtained information about thereof from entities or authorities referred to in paragraph 2 (3), a telecommunications undertaking shall immediately take action specified in the plans.
5. The Council of Ministers, having regard to the scope and type of telecommunications activities performed, the size of a telecommunications undertaking and its relevance for economy, defence, state security and public security and order, as well as the requirements referred to in paragraph 2, by means of an ordinance:
- 1) shall define:
    - a) types of plans, their contents and the procedure for their preparation and updating,
    - b) the authorities that agree on the plans and the scope of agreement,
    - c) types of telecommunications undertakings obliged to agree on the contents of the plans;

2) may define types of telecommunications activities or types of telecommunications undertakings that are not subject to the obligation to draft plans.

**Article 177.** 1. (deleted).

2. (deleted).

3. A telecommunications undertaking in emergency situations shall be obliged to grant access to its telecommunications equipment necessary to carry out rescue action to another telecommunications undertaking, entity and service referred to in Article 176a (2) (3) free of charge, observing the principle to minimize negative impact of access to such equipment on the continuity of telecommunications activities performed by that undertaking.

4. Entities other than telecommunications undertakings using radio transmitters or radio transceivers in radiocommunication services in emergency situations shall be obliged to grant access to their telecommunications equipment necessary to carry out rescue action to entities coordinating rescue activities, entities relevant in crisis management, statutory emergency services as well as to other entities performing tasks in favour of national defence, security and public safety and order.

5. The provisions of paragraphs 3 and 4 shall respectively apply during rescue actions with international coverage, at least within the scope defined in international agreements to which the Republic of Poland is a party.

6. The Council of Ministers shall define by means of an ordinance the procedure for making available radio transmitters or transceivers applied in radiocommunication services by entities other than telecommunications undertakings, having regard to the necessity to observe the principle of minimizing negative impact of access to such equipment.

**Article 178.** 1. In the event of a particular risk, the President of UKE may, by means of a decision, impose on telecommunications undertakings obligations concerning:

1) the maintenance of continuity or restoration of:

a) the provision of a telecommunications network,

b) the provision of telecommunications services

- taking account of priority given to entities and services referred to in paragraph 2 (1);

2) the limitation of some publicly available telecommunications services,

3) the limitation of the scope or the area of telecommunications networks and telecommunications equipment operation, radio equipment use, excluding equipment used by entities referred to in Article 4,

4) mandating free provision, within the specific scope, of publicly available telephone services from public pay-phones

- guided by the extent of the risk and the need to limit its effects, observing the principle to minimize negative effects of the imposed obligations on continued service provision and on a telecommunications undertaking's business activities. This decision shall be immediately enforceable.

2. The decision of the President of UKE referred to in paragraph 1:

1) shall be issued ex officio or at the request of entities coordinating rescue actions, entities relevant in crisis management, statutory emergency services as well as other entities performing tasks in favour of national defence, state security and public safety and order;

2) may be announced orally to a telecommunications undertaking, without justification, in whole or in part, where necessary for the reasons of national defence, state security and public safety and order.

3. In cases and under the terms specified in separate provisions the Commander-in-Chief of the Police, the head of voivodeship Police, the Commander-in-Chief of the Border Guard, the Commander-in-Chief of the Border Guard Department, the Commander-in-Chief of the

Military Police, the Commander-in-Chief of the Military Police Department, the Head of the Internal Security Agency, the Head of the Military Counter-Intelligence Service and the Head of the Government Protection Bureau may decide about the use of equipment preventing telecommunications in a specific area.

**Article 179.** 1. (deleted).

2. A telecommunications undertaking shall perform tasks and duties within the scope of preparation and maintenance of indicated telecommunications network elements in order to provide telecommunications for the needs of a national security management system, including national defence, performed in line with the rules specified in the plans, decisions or agreements concluded between telecommunications undertakings and authorised entities.

3. A telecommunications undertaking, subject to paragraph 12 (2), shall be obliged to:

1) ensure technical and organisational conditions for access and retention, hereinafter referred to as “the conditions for access and retention”, allowing for concurrent and mutually independent:

a) access by the Police, the Border Guard, the Internal Security Agency, the Military Counter-Intelligence Service, the Military Police, the Central Anti-Corruption Bureau and fiscal intelligence, hereinafter referred to as “authorised entities”, obtained in a manner specified in paragraph 4b, to:

- telecommunications messages, sent or received by an end user or telecommunications terminal equipment,

- data related to the telecommunications messages referred to in paragraph 9, Article 159 (1) (1) and (3) to (5) in the undertaking’s possession,

b) data related to the telecommunications service provided and data referred to in Article 161 to be obtained by authorised entities,

c) retention of telecommunications messages and data referred to in (a) and (b) by authorised entities,

2) retention of telecommunications messages and data referred to in point 1 (a) and (b) for the purposes of a court and a prosecutor.

3a. A telecommunications undertaking shall ensure, at its cost, the conditions for access and retention with respect to all telecommunications services provided, from the start-up date of the telecommunications activities and in the case it starts to provide a new telecommunications service, from the date of its launch.

3b. A telecommunications undertaking shall ensure, at its cost, retention of telecommunications messages and data referred to in paragraph 3 (1) (a) and (b) for the purposes of a court or a prosecutor.

4. A telecommunications undertaking shall ensure the conditions for access and retention observing the requirements specified in the ordinance referred to in paragraph 12.

4a. The conditions for access and retention may be provided by means of interfaces located in points covered by the telecommunications undertaking’s network, under the terms specified in agreements concluded by authorised entities with a telecommunications undertaking. The agreement may specify participation of the parties in the costs of interface application. In the absence of agreed location for an interface, authorised entities shall indicate a point of location within the telecommunications network of a telecommunications undertaking allowing for technical implementation of the interface, necessary protection of the place resulting from separate provisions and minimisation of expenditure incurred by a telecommunications undertaking and authorised entities.

4b. The provided conditions for access and retention should enable authorised entities to have access to telecommunications messages and data without the presence of employees of a telecommunications undertaking. Upon consent of an authorised entity the conditions for

access and retention may be provided with the necessary presence of authorised employees of a telecommunications undertaking ensuring that the activities in question within the scope specified by an authorised entity are performed in an appropriate manner.

4c. It shall be possible to ensure the conditions for access and retention jointly by two or more telecommunications undertakings, in particular by means of the same interfaces. The detailed principles for cooperation of telecommunications undertakings in that regard shall be specified under agreements concluded between them. The undertakings shall inform the President of UKE about the conclusion of an agreement without delay. The conclusion of an agreement shall not release any of the parties from individual responsibility for the provision of conditions for access and retention.

5. (deleted).

6. The President of UKE at the request of a telecommunications undertaking justified by objective and independent of that undertaking technical or organisational reasons that prevent further performance of an obligation to provide conditions for access and retention, having obtained agreement from authorised entities within the time limit specified in Article 106 § 3 of the Act of 14 June 1960 Code of Administrative Procedure, may by means of a decision, suspend this obligation in whole or in part for the period not longer than 6 months. The request shall be filed within 14 days of the day on which the circumstance referred to in the first sentence occurred. A schedule for reaching full capacity by an undertaking to perform the obligation shall be attached to the request.

6a. The provision of paragraph 6 shall not apply to a telecommunications undertaking that starts telecommunications activities or starts to provide a new telecommunications service.

6b. Filing the request or suspension of the obligation to provide conditions for access and retention shall not release a telecommunications undertaking from the obligation to provide conditions for access and retention within the limits of currently held technical, organisational and financial capacities.

7. A telecommunications undertaking may entrust another telecommunications undertaking with the performance of obligations referred to in paragraph 3 by means of an agreement. This entrustment shall not release the entrusting party from responsibility for the performance of obligations referred to in paragraph 3.

8. A telecommunications undertaking shall indicate to the President of UKE:

1) an organisational unit or an individual with its seat or place of residence in the territory of the Republic of Poland authorised to represent this undertaking in cases related to the provision of conditions for access and retention;

2) a telecommunications undertaking to perform obligations referred to in paragraph 3 on its behalf;

3) a telecommunications undertaking jointly with which it shall provide the conditions for access and retention by means of the same interfaces.

8a. In the event of changes to the details of entities referred to in paragraph 8, a telecommunications undertaking shall be obliged to inform the President of UKE thereof.

9. A telecommunications undertaking providing publicly available telecommunications services shall keep an electronic directory of subscribers, users or network termination points, which includes data obtained at the conclusion of an agreement.

10. The President of UKE shall immediately transfer the information referred to in paragraph 8 and 8a to the Minister of Justice, the Minister of National Defence, the Minister competent for internal affairs, the Minister competent for public finances and the Head of the Internal Security Agency, the Head of the Central Anti-Corruption Bureau, the Head of the Military Counter-Intelligence Service and the minister whose portfolio includes coordination of special services, if appointed.

11. (deleted).

12. The Council of Ministers shall specify by means of an ordinance:

- 1) the requirements and methods for the provision of conditions for access and retention referred to in paragraph 3 and Article 180d, excluding cases regulated under Article 242 of the Code of Penal Procedure, guided by the principle to achieve the objective at as minimum expenditure as possible;
- 2) types of telecommunications activities or types of telecommunications undertakings not subject to the obligation to provide the conditions for access and retention referred to in paragraph 3 and Article 180d, guided by the scope and type of telecommunications services provided or the size of the undertakings' telecommunications networks.

**Article 180.** 1. A telecommunications undertaking shall immediately block telecommunications calls or information transfers at the request of authorised entities, where these calls pose danger to national defence, state security and public safety and order, or shall allow these entities to make such a blockade.

2. An operator of a public mobile telecommunications network shall:

- 1) prevent the use of stolen telecommunications terminal equipment within its network;
- 2) transfer information identifying stolen telecommunications terminal equipment to other operators of public mobile telecommunications networks so as to enable the performance of activities referred to in point 1).

3. Activities referred to in paragraph 2 shall be performed by an operator within 1 working day of the day a subscriber provides a confirmed report of telecommunications terminal equipment theft, an equipment identification number and a proof of purchase or other data unambiguously identifying the owner of this equipment. In the case of receiving the information identifying stolen equipment from another operator, the period of 1 working day shall apply from the day of receiving this information.

**Article 180a.** 1. Subject to Article 180c (2) (2), an operator of a public telecommunications network and a provider of publicly available telecommunications services shall be obliged at their cost to:

- 1) retain and store data referred to in Article 180c generated in a telecommunications network or processed by that operator or provider, in the territory of the Republic of Poland, for the period of 12 months counted from the day of a call or an unsuccessful call attempt, and to erase the data as of the expiry of this period, excluding data protected under separate provisions.
- 2) make available the data referred to in point 1 to authorised entities as well as to the Customs Service, the court and prosecutor under the terms and procedure specified in separate provisions;
- 3) protect data referred to in point 1 against accidental or unlawful destruction, loss or alternation, unauthorised or unlawful storage, processing, access or disclosure, in accordance with the provisions of Articles 159-175a, Article 175c and Article 180e.

2. Subject to paragraph 3, the obligation referred to in paragraph 1 shall be considered as completed, if an operator of a public telecommunications network or a provider of publicly available telecommunications services where they cease telecommunications activities submit the data to another operator of a public telecommunications network or a provider of publicly available telecommunications services for further storage, making available and protection.

3. If an operator of a public telecommunications network or a provider of publicly available telecommunications services was declared bankrupt, the bankrupt operator or provider shall have the obligation to submit the data referred to in paragraph 1 to the President of UKE for further storage, making available and protection.



4. The Prime Minister shall define, by means of an ordinance, the method of submitting data to the President of UKE in the case referred to in paragraph 3 as well as the method of making this data available by the President of UKE to entities referred to in paragraph 1 (2) in order to ensure that the tasks are performed by these entities.

5. Data on calls made and unsuccessful call attempts referred to in Article 159 (1) (5) shall be subject to the obligation referred to in paragraph 1.

6. The obligation referred to in paragraph 1 should be performed in a manner which does not lead to a disclosure of a telecommunications message.

7. Making available the data referred to in paragraph 1 (1) may take place by means of a telecommunications network, unless otherwise provided for in separate provisions.

**Article 180b.** 1. The obligation referred to in Article 180a (1) may be performed jointly by two or more operators of a public telecommunications network or providers of publicly available telecommunications services.

2. An operator of a public telecommunications network or a provider of publicly available telecommunications services may entrust another telecommunications undertaking with the performance of an obligation referred to in Article 180a (1) by means of an agreement. This entrustment shall not release the entrusting party from responsibility for the performance of this obligation.

**Article 180c.** 1. The obligation referred to in Article 180a (1) shall cover the data necessary to:

1) trace the network termination point, telecommunications terminal equipment, an end user:

a) originating the call,

b) called;

2) identify:

a) the date and time of a call and its duration,

b) the type of a call,

c) location of telecommunications terminal equipment.

2. The minister competent for communications in agreement with the minister competent for internal affairs, having regard to the type of telecommunications activities performed by operators of a public telecommunications network or providers of publicly available telecommunications services, data specified in paragraph 1, costs of data collection and retention as well as the need to avoid multiple retention and storage of the same data, shall specify, by means of an ordinance:

1) a detailed list of data referred to in paragraph 1;

2) types of public telecommunications network operators or providers of publicly available telecommunications services obliged to retain and store the data.

**Article 180d.** Telecommunications undertakings shall be obliged to provide conditions for access and retention as well as to make available at their own cost the data referred to in Article 159 (1) (1) and (3) to (5), in Article 161 and in Article 179 (9) related to the provided telecommunications service and processed by them to authorized entities, the Customs Service, the court and to the prosecutor, under the terms and observing the procedures specified in separate provisions.

**Article 180e.** For the purposes of data protection referred to in Article 180a (1) (3) a telecommunications undertaking shall apply appropriate technical and organizational measures and shall provide access to this data only to authorized employees.

**Article 180f.** 1. A telecommunications undertaking shall be obliged to submit to the President of UKE data on telecommunications infrastructure operated or used by that undertaking, necessary to establish communications systems for the purposes of national defence, including national security management system, and to make updates following each modification without delay.

2. The data referred to in paragraph 1 shall be collected in a database established and managed by the President of UKE. The database shall be updated following each modification to the data.

3. The minister competent for communications shall specify, by means of an ordinance, detailed scope of the data referred to in paragraph 1, the form and procedure for submissions and updates, having regard to the conditions and manner in which communications systems for the purposes of national defence are prepared and used, safety of the data submitted and ensuring consistent form of the data.

**Article 180g.** 1. A telecommunications undertaking, by 31 January, shall submit to the President of UKE information for the past year about:

- 1) total number of cases in which data referred to in Article 180c (1) was made available to authorized entities, the Customs Service, the court and the prosecutor;
- 2) time that elapsed between the date of data retention and the date of submitting a request or an oral demand for making the data available from entities referred to in point 1;
- 3) total number of cases in which a request or an oral demand referred to in point 2 could not be satisfied.

2. The President of UKE shall submit information referred to in paragraph 1 to the European Commission on an annual basis.

3. The minister competent for communications shall specify, by means of an ordinance, templates for a form used to submit information referred to in paragraph 1 to the President of UKE, guided by the need to submit full and reliable information to the European Commission.

4. A telecommunications undertaking may entrust another telecommunications undertaking with the performance of obligations referred to in paragraph 1 by means of an agreement. In this case a telecommunications undertaking submitting information to the President of UKE may submit its own and entrusting party's information in a joint form. This entrustment shall not release the entrusting party from responsibility for the performance of this obligation.

**Article 181.** (deleted).

**Article 182.** The Council of Ministers shall specify, by means of an ordinance, technical and operational requirements for interfaces referred to in Article 179 (4a) allowing the performance of tasks and duties in favour of national defence, state security and public safety and order referred to in Article 179 (3) and in Article 180d, guided by the principle to minimize expenditure incurred by a telecommunications undertaking and authorised entities.

## **PART IX**

### **Telecommunications fees**

**Article 183.** 1. A telecommunications undertaking shall pay an annual telecommunications fee associated with the performance of tasks within the scope of telecommunications by administrative bodies referred to in Article 189, including:

- 1) keeping a register of telecommunications undertakings;

- 2) issuing administrative decisions, excluding decisions for which fees are provided for in separate regulations;
- 3) analysis, review and control of relevant telecommunications product and service markets;
- 4) resolving disputes between telecommunications undertakings;
- 5) cooperation with Community and international institutions within the scope resulting from the applicable regulations of national and Community law and from concluded international agreements, as well as the remaining tasks associated with the functioning of UKE and the Minister competent for communications, excluding numbering and frequency resources management.

2. The amount of the fee referred to in paragraph 1 may not exceed 0.05 % of a telecommunications undertaking's annual revenues from performed telecommunications activities, obtained in the financial year 2 years before the year for which this fee is due.

3. A telecommunications undertaking shall pay the fee referred to in paragraph 1 after 2 years from the day on which the performance of these activities commenced.

4. The fee referred to in paragraph 1 shall be paid by a telecommunications undertaking that obtained revenues from performing telecommunications activities in the financial year 2 years before the year for which this fee is due higher than PLN 4 million.

5. The Minister competent for communications shall transfer to the President of UKE a breakdown of costs associated with performing tasks referred to in paragraph 1 incurred in the preceding year within 3 months of the end of a financial year.

6. The President of UKE shall publish every year on the UKE BIP website a breakdown of costs associated with performing tasks referred to in paragraph 1 incurred in the preceding year, as well as total revenues from the annual telecommunications fee collected in the preceding year within 5 months of the end of the financial year.

7. The Minister competent for communications, in agreement with the Minister competent for public finances, shall specify, by means of an ordinance, the amount, manner of specifying, time limits and manners of paying, for the fee referred to in paragraph 1, guided by:

- 1) the amount of expenses of the President of UKE and the Minister competent for communications associated with performing their tasks within the scope of telecommunications referred to in paragraph 1, accepted in the budget act for the year preceding the year for which this fee is due;

- 2) the amount of the telecommunications undertakings' revenue from performing telecommunications activities in the year preceding by 2 years the year for which this fee is due;

- 3) the need to compensate the amount of revenue from this fee in the preceding year and the amount of costs referred to in paragraph 6.

**Article 184.** 1. An entity that has received the right to use numbering resources in a numbering assignment shall pay annual fees for the right to use numbering resources.

2. Fees referred to in paragraph 1 may not be higher than:

- 1) for a subscriber number – PLN 0.35;

- 2) for an AB telecommunications network indication code granted to an entity performing telecommunications activities – PLN 180 000;

- 3) for a public land mobile network indication code (PLMN) – PLN 1 800 000;

- 4) for a network access code (NDS) – PLN 60 000;

- 5) for a 118CDU number – PLN 60 000;

- 6) for an IT network access number (NDSI) – PLN 550;

- 7) for an area number for special subscriber services for each numbering area where this number can be used – PLN 1 600; this fee shall not be charged for emergency numbers that are free for the subscribers to connect with;

- 8) for a national intelligent network number – PLN 28;
  - 9) for a DNIC+PNIC number in a packet switched data network – PLN 36 000;
  - 10) for a signalling point number – PLN 12 000;
  - 11) for a closed user group (CUG) number; for every 8 CUG numbers – PLN 55;
  - 12) for a mobile network code (MNC) – PLN 1 200;
  - 13) for an ATM network code – PLN 1 200;
  - 14) for a routing number (NR) – PLN 1 000;
3. An obligation to pay fees for the right to use numbering resources shall cease not later than 30 days after submitting a request for the withdrawal of this numbering assignment.
4. The Minister competent for communications, in agreement with the Minister competent for public finances, shall specify, by means of an ordinance, the amount, time limits and manner of paying, for the fees referred to in paragraph 1, taking account of the amounts specified in paragraph 2, the conditions for using numbering resources, guided by the costs of numbering resources management as well as by the need to guarantee optimal use of numbering resources.

**Article 185.** 1. An entity that has received the right to use a frequency subject to a general exclusive frequency licence shall pay annual fees for the right to use this frequency.

2. The obligation to pay the fee referred to in paragraph 1 shall not concern an entity to which the frequencies have been leased or transferred for use under Article 122<sup>1</sup>, as well as an authorised entity referred to in Article 143 (4).

3. An entity without a general exclusive frequency licence that has received the right to use a frequency in a radio licence, shall pay an annual fee referred to in paragraph 1.

3a. An annual fee referred to in paragraph 1 shall be paid for using frequencies under the decision referred to in Article 144a and Article 144b.

4. An entity to which a general exclusive frequency licence has been granted by means of a procedure referred to in Article 116 shall pay an additional fee for a general exclusive frequency licence in an amount declared in this procedure, not lower than an annual fee for the right to use the frequency specified in accordance with the conditions provided for in the general exclusive frequency licence.

4a. An entity to which a general exclusive frequency licence has been granted for a subsequent period by means of a procedure referred to in Article 116 (8) shall pay a single fee for a general exclusive frequency licence for a subsequent period in the amount equal to:

1) the value of frequencies of 1MHz bandwidth for the same area and frequency use, obtained as a result of the last tender, auction or contest for a general exclusive frequency licence in a given frequency range;

2) the number of MHz covered by a general exclusive frequency licence for a subsequent period;

multiplied by

3) average annual indicators of prices for products and consumer services in total announced by the President of the Central Statistical Office, for the period from the year in which the last tender, auction or contest for a general exclusive frequency licence referred to in paragraph 1 was held to the year preceding the year in which a request for granting the general exclusive frequency licence for a subsequent period was submitted.

4b. If as a result of a tender, an auction or a contest more than one general exclusive frequency licence was granted, the value of the frequency of 1 MHz bandwidth referred to in paragraph 4a (1) shall be averaged in relation to single fees for the general exclusive frequency licences, declared by the selected entities.

4c. In the case of general exclusive frequency licences granted for the subsequent period in the frequency range that has not been earlier subject to a tender, an auction or a contest or a

tender, an auction or a contest had been conducted but was unresolved, the amount of the fee shall be defined by the President of UKE based on an opinion of an expert or experts appointed by him/her on the market value of these frequencies. The cost of an opinion of an expert or experts shall be covered by an entity which submitted a request for granting a general exclusive frequency period for a subsequent period.

4d. An entity which has obtained a modification to a general exclusive frequency licence under Article 116a (1) shall pay a fee for modification to its licence equal to the amount by which the value of frequencies covered by that licence has increased compared to the value of previously held frequencies. The amount referred to in the previous sentence shall be defined by the President of UKE based on an opinion of an expert or experts appointed by him/her. The cost of an opinion of an expert or experts shall be covered by an entity referred to in the first sentence.

5. Fees referred to in paragraph 1 in particular radiocommunication services may not be higher than:

- 1) in fixed satellite service for the right to use a frequency by one station – PLN 20.000;
- 2) in earth exploration-satellite service for the right to use a frequency by one station – PLN 5.000;
- 3) in meteorological-satellite service for the right to use a frequency by one station – PLN 5.000;
- 4) in radionavigation-satellite service for the right to use a frequency by one station – PLN 5.000;
- 5) in space operation service for the right to use a frequency by one station – PLN 5.000;
- 6) in space exploration service for the right to use a frequency by one station – PLN 5.000;
- 7) in satellite broadcasting service for the right to use a frequency by one station – PLN 40.000;
- 8) in mobile satellite service for the right to use a frequency by one station – PLN 80.000;
- 9) in mobile satellite service for the right to use frequencies of a total bandwidth of 1 MHz used by complementary ground components of mobile satellite systems in the area of one commune or in a smaller area - PLN 500;
- 10) in radiolocation service for the right to use a frequency by one radar station - PLN 1.000;
- 11) in aeronautical service for the right to use the frequencies of a total bandwidth of 1 kHz by one airport system - PLN 100;
- 12) in maritime and waterway shipping service:
  - a) for the right to use frequencies of a total bandwidth of 1 kHz by one coast station in coast – ship communications - PLN 100,
  - b) for the right to use frequencies of a total bandwidth of 1 kHz by each transportable or portable land station in coast – ship communications – PLN 100;
- 13) in terrestrial broadcasting service:
  - a) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the band below 300 kHz - PLN 0.5,
  - b) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the range from 300 kHz to 3000 kHz – PLN 110,
  - b) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the range above 3 MHz to 30 MHz – PLN 400,
  - d) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the range above 30 MHz to 174 MHz:
    - for a rural commune - PLN 2.25,
    - for a commune with mixed urban and rural features - PLN 2.25,
    - for an urban commune, excluding district cities - PLN 6.5,
    - for a district city - PLN 25,

e) for the right to use one TV channel by one analogue TV station in the band above 174 MHz – PLN 99 000,

f) for the right to use frequencies of a total bandwidth of 1 MHz used by a digital system in the area of one commune or in a smaller area, within the range above 174 MHz to 862 MHz:

- for a rural commune - PLN 345,
- for a commune with mixed urban and rural features - PLN 345,
- for an urban commune, excluding district cities - PLN 990,
- for a district city - PLN 5.000,

g) for the right to use frequencies of a total bandwidth of 1 MHz used by a digital system in the area of one commune or in a smaller area, within the band above 862 MHz – PLN 500;

14) in fixed service:

a) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the band below 470 MHz - PLN 100,

b) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the range above 470 MHz to 3400 MHz – PLN 10,

c) for the right to use frequencies of a total bandwidth of 1 MHz in the area of one commune or in a smaller area, within the band above 3400 MHz - PLN 500,

d) for the right to use frequencies of a total bandwidth of 1 kHz within the band below 30 MHz - PLN 2.000,

e) for the right to use frequencies of a total bandwidth of 1 kHz, in one radio link hop within the range from 30 MHz to 1 GHz – PLN 5,

b) for the right to use frequencies of a total bandwidth of 1 MHz, in one radio link hop, within the range above 1 GHz to 11.7 GHz – PLN 5.000,

g) for the right to use frequencies of a total bandwidth of 1 MHz, in one radio link hop, within the band above 11.7 GHz – PLN 2.000;

15) in land mobile service:

a) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the range up to 470 MHz used by radio equipment using radio channels of bandwidth below 200 kHz – PLN 100,

b) for the right to use frequencies of a total bandwidth of 1 MHz in the area of one commune or in a smaller area, within the range up to 470 MHz used by radio equipment using radio channels of 200 kHz bandwidth or more – PLN 400,

c) for the right to use frequencies of a total bandwidth of 1 kHz in the area of one commune or in a smaller area, within the range from 470 MHz to 3400 MHz used by radio equipment using radio channels of bandwidth below 200 kHz – PLN 10,

d) for the right to use frequencies of a total bandwidth of 1 MHz in the area of one commune or in a smaller area, within the range from 470 MHz to 3400 MHz used by radio equipment using radio channels of 200 kHz bandwidth or more – PLN 400,

e) for the right to use frequencies of a total bandwidth of 1 MHz in the area of one commune or in a smaller area, within the band above 3400 MHz - PLN 500,

6. Fee limits referred to in paragraph 5 shall be reduced to 50% where the frequencies are used exclusively:

1) to provide occasional aid at rescuing people's life and health by health service units as well as mountain, water and mining rescue teams;

2) to run operations by organisational units whose statutory obligation is planning, running and participating in operations aimed at prevention and disaster relief;

3) for radiocommunications systems used in maritime and inland waterway services by maritime administration and inland waterway administration as well as Maritime Rescue and Search Service with respect to navigation safety and coast protection;

4) to perform railway communications tasks within the scope of the European Rail Traffic Management System (ERTMS);

5) to broadcast or re-broadcast radio or television programmes of non-commercial content.

7. Fees for the right to use a frequency shall not be charged:

1) in maritime and inland waterway radiocommunication services:

a) in the maritime VHF band:

- in channel 16 (156,800 MHz),

- in channel 70 (156,525 MHz);

b) in the maritime MF band: 2174,5 kHz, 2182 kHz, 2187.5 kHz,

c) in the 406,0-406,1 MHz band,

d) by vessels in ship-to-ship communications and in ship-to-coast communications;

2) used by transmission stations in radionavigation service and in maritime radiolocation and inland waterway service;

3) in aeronautical radiocommunication service:

a) for frequencies used in distress and to ensure safety: 121,5 MHz, 123,1 MHz, 243 MHz,

b) by aircrafts in aircraft – Earth and aircraft – aircraft communications;

4) used by transmission stations in radionavigation service and in aeronautical radiolocation service;

5) in amateur radiocommunication service in the frequency bands allocated in the National Frequency Allocation Table for amateur service.

8. Entities referred to in Article 4 point (1), (2), (4), (5), (7) and (8) shall pay fees for the right to use frequencies. The fee for the right to use frequencies by foreign armed forces units temporarily residing in the territory of the Republic of Poland under separate provisions shall be included in the lump fee for the right to use frequencies paid by the Minister of National Defence.

9. Subject to paragraph 8, the obligation to pay fees for the right to use frequencies shall cease on the day of submitting a request for resigning from a general exclusive frequency licence or a radio licence.

9a. In the case the request referred to in paragraph 9 defines a time limit for resignation from a general exclusive frequency licence or from a radio licence, the obligation to pay fees for the right to use frequencies shall cease on that day.

10. In the case where a general exclusive frequency licence, a radio permit or a decision referred to in Article 144a or Article 144b is withdrawn, the fees paid shall not be recovered. In the case where a decision on a general exclusive frequency licence, a radio licence or a decision referred to in Article 144a or Article 144b are found null and void, the fees collected for these frequencies shall not be returned if the frequencies were used.

11. The Council of Ministers shall specify, by means of an ordinance, the level of fees referred to in paragraph 1, time limits and the manner of payments, having regard in particular to:

1) the conditions for frequency use and the costs of frequency management;

2) the need to ensure optimal and effective use of frequency resources;

3) the need to stimulate market competition;

4) the need to prevent information exclusion, in particular in rural areas;

5) specificity of frequency allocation and use;

6) social benefits related to the use of a given frequency resource.

12. The Council of Ministers shall specify, by means of an ordinance, the amount, time limits and manners of payment for the fees referred to in paragraph 8, taking account of the specificity of frequency use by entities referred to in Article 4 point (1), (2), (4), (5), (7) and (8).

**Article 186.** Fees referred to in Articles 183-185 shall be collected by UKE and shall be the income of the state budget.

**Article 187.** Provisions on executive proceedings in administration within the scope of monetary obligations execution shall apply to the fees referred to in Articles 183-185.

**Article 188.** Within the scope not regulated in this Act, the provisions of chapters 5-9 Part III of the Tax Code Act of 29 August 1997 shall apply to the fees referred to in Articles 183-185 (Journal of Laws of 2005 No. 8, item 60, with subsequent amendments). The President of UKE shall have the tax authorities competence specified in these provisions.

## **PART X**

### **Communications administration and proceedings before the President of UKE**

#### **Chapter 1**

#### **Communications administration bodies**

**Article 189.** 1. The communications administration bodies shall be the Minister competent for communications and the President of UKE.

2. The communications administration bodies shall carry out the regulatory policy, aiming in particular at:

1) supporting competition with respect to the provision of telecommunications networks, associated facilities or telecommunications services, including:

a) ensuring that users, including disabled users, derive maximum benefit in terms of prices, choice of services and quality,

b) ensuring that there is no distortion or restriction of competition (in the telecommunications market),

c) efficient investment in infrastructure and promoting innovative technologies,

d) supporting efficient use and management of frequency and numbering resources,

e) ensuring regulatory certainty;

2) supporting internal market development, including:

a) the removal of existing market barriers with regard to telecommunications activities,

b) supporting the establishment and development of trans-European networks and interoperability of pan-European services,

c) ensuring equal treatment (non-discrimination in treatment) of telecommunications undertakings,

d) cooperation with other regulatory authorities of the Member States and the European Commission, in order to implement and apply regulations consistently,

e) cooperation with other regulatory authorities of the Member States and the European Commission with respect to:

- strategic planning, coordination and harmonisation of the use of radio spectrum in the European Union, having regard to optimising the use of radio spectrum and of avoiding harmful interference as well as

- promoting coordination of radio spectrum policy in the European Union as well as harmonized conditions with regard to the availability and efficient spectrum use necessary for the establishment and functioning of the internal market for telecommunications services;

3) promoting the interests of European Union citizens, including:

a) ensuring that all citizens have access to universal service,



- b) ensuring consumer protection in relations between consumers and telecommunications undertakings, in particular by establishing simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved in a dispute,
  - c) contributing to ensure high level of personal data protection,
  - d) availability of information concerning tariffs and conditions for using publicly available telecommunications services,
  - e) identifying the needs of certain social groups, particularly of disabled users,
  - f) ensuring integrity and security of a public telecommunications network,
  - g) promoting harmonisation of specific numbers or numbering ranges within the European Union as well as ensuring information on a single European emergency 112 number and on other European harmonized numbers, addressed to the citizens, in particular those travelling between the Member States,
  - h) promoting users' access to information and ability to distribute it as well as to use applications and services of their choice;
- 4) carrying out the policy of promoting cultural and linguistic diversity as well as media pluralism;
  - 5) ensuring that regulations are technologically neutral.

**Article 190.** 1. The President of UKE shall be a regulatory authority with respect to telecommunications and postal services markets.

2. The President of UKE shall submit to the minister competent for communications an annual report on his/her regulatory activities as well as performance on the government policy and community telecommunications policy in the preceding year, by 30 April. The minister competent for communications shall give his/her opinion on the report within one month of the submission thereof by the President of UKE, and shall submit the report together with the opinion to the Prime Minister.

2a. The President of UKE shall submit information about his/her activity to the minister competent for communications at his/her request.

3. The President of UKE shall be a central-level authority of government administration.

4. The President of UKE shall be appointed by the Sejm with the Senate's consent at the request of the Prime Minister. The term of office of the President of UKE shall last 5 years. Following the expiry of the term of office the President of UKE shall continue in his/her function until a successor is appointed.

4a. The President of UKE may be dismissed before the end of the term for which he/she was appointed only in the event of:

- 1) a gross violation of the law;
- 2) a final court sentence for committing an intentional offence or a fiscal offence;
- 3) a sentence barring him/her from managerial positions or functions related to special responsibility in the state administration being pronounced against him/her;
- 4) an illness permanently preventing him/her from the performance of his/her duties,
- 5) his/her resignation.

4b. The information about dismissal of the President of UKE, stating the reasons thereof, shall be made public by means of announcing it on the Public Information Bulletin website of the minister competent for communications.

5-6a (deleted);

7. (deleted).

8. The Minister competent for communications, at the request of the President of UKE, shall appoint the deputy President of UKE from amongst persons selected by means of an open and competitive recruitment process. The Minister competent for communications shall dismiss

the Deputy President of UKE, exclusively in cases referred to in paragraph 4a, or if he/she no longer fulfil the conditions referred to in paragraph 8a.

8a. The post of the Deputy President of UKE may be held by a person who:

- 1) has a master's degree or its equivalent;
- 2) is a Polish citizen;
- 3) enjoys full public rights;
- 4) has not been sentenced by a valid court sentence for an intentional offence or an intentional fiscal offence;
- 5) has managerial competences;
- 6) has at least 6 years of employment, including at least 3 years in a managerial position;
- 7) has education and knowledge of issues within the competence of the President of UKE.

8b. Information on recruitment for the position of the Deputy President of UKE shall be announced by placing an advertisement in publicly available space at the seat of UKE, on the UKE BIP website and in the Public Information Bulletin of the Chancellery of the Prime Minister. The advertisement should contain:

- 1) the name and address of the office;
- 2) specification of the position;
- 3) requirements related to the position as specified by law;
- 4) the scope of tasks performed in the position;
- 5) required documents;
- 6) time limit and place for submitting the documents;
- 7) information on the methods and recruitment techniques.

8c. The time limit referred to in paragraph 8b (6), may not be shorter than 10 days from the day on which the advert was published in the Public Information Bulletin of the Chancellery of the Prime Minister.

8d. Recruitment for the position of the Deputy President of UKE shall be carried out by a team appointed by the President of UKE, consisting of at least 3 persons, whose knowledge and experience give warranty that the best candidates will be selected. During recruitment professional experience, knowledge necessary to perform tasks in the position for which the recruitment is carried out and managerial competences of the candidate shall be evaluated.

8e. The evaluation of knowledge and managerial competences referred to in paragraph 8d may be contracted out by the team to a person who is not its member and who has appropriate qualifications to perform such evaluation.

8f. A team member and the person referred to in paragraph 8e shall be obliged to keep secret the information on persons applying for the position, obtained during recruitment.

8g. In the course of recruitment process the team shall select not more than three candidates who shall be presented to the minister competent for communications.

8h. A recruitment report shall be drafted, including:

- 1) the name and address of the office;
- 2) specification of the position for which the recruitment was organised and the number of candidates;
- 3) names, surnames and addresses of not more than the three best candidates ranked according to the level in which they meet the requirements specified in the recruitment advert;
- 4) information on the applied methods and recruitment techniques;
- 5) justification for the selection or reasons for not selecting a given candidate;
- 6) composition of the team.

8i. The result of recruitment procedure shall be announced without delay by publishing information in the Public Information Bulletin of the Chancellery of the Prime Minister. Information on the recruitment outcome shall include:

- 1) the name and address of the office;

- 2) specification of the position for which the recruitment was organised;
  - 3) names, surnames of the candidates selected and their place of residence within the meaning of the Civil Code or information about not selecting a candidate.
- 8j. Placing an announcement in the Public Information Bulletin of the Chancellery of the Prime Minister about the recruitment and its outcome shall be free of charge.
9. The President of UKE shall be an executive body with respect to the administrative vindication of non-pecuniary obligations.

**Article 191.** 1. The President of UKE shall publish the Official Journal of the Office of Electronic Communications.

2. In particular, the following shall be announced in the Official Journal referred to in paragraph 1:

- 1) orders;
- 2) (deleted);
- 3) international regulations;
- 4) notices, announcements and communications.

**Article 192.** 1. The scope of activities of the President of UKE shall include, in particular:

- 1) the performance of tasks provided for in the Act and regulations issued thereunder within the scope of telecommunications services markets regulation and control, the management of frequency, orbital and numbering resources and monitoring the compliance with electromagnetic compatibility requirements;
- 2) the performance of tasks:
  - a) within the scope of postal activities regulation, provided for in the Postal Act of 23 November 2012 (Journal of Laws item 1529),
  - b) defined in the Act:
    - of 7 May 2010 on supporting the development of services and telecommunications networks,
    - of 21 March 1985 on public roads (Journal of Laws of 2007 No. 19, item 115, with subsequent amendments),
    - of 27 March 2003 on town and country planning (Journal of Laws No. 80, item 717, with subsequent amendments),
    - of 21 August 1997 on real property management;
- 3) the preparation of draft legal acts with regard to communications indicated by the Minister competent for communications;
  - 3a) the performance of tasks resulting from the provisions of the 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 (OJ L337, 18.12.2009, p. 1);
- 4) the analysis and assessment of telecommunications and postal services markets functioning;
- 5) interventions in issues concerning the functioning of telecommunications and postal services markets and the apparatus market, including the telecommunications equipment market, on his/her own initiative or filed by interested entities, in particular by users and telecommunications undertakings, including making decisions on these issues within the scope specified in the Act;
  - 5a) control on the performance of obligations under the Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile networks within the Union (OJ L172, 30.06.2012, p.10);

- 5b) exercising controls of operators of a public telecommunications network and providers of publicly available telecommunications services within the scope of obligations referred to in Article 180a (1), excluding obligations related to personal data protected under the provisions on personal data protection;
- 5c) maintaining databases referred to in Article 71 (4) and in Article 180f (2);
- 6) resolving disputes between telecommunications undertakings within the competence of the President of UKE;
- 6a) resolving disputes between a multiplex operator and a broadcaster referred to in Article 131a-131f and disputes referred to in Article 136a;
- 7) ruling on professional qualifications in telecommunications as specified in separate regulations;
- 8) creating conditions for the development of national radiocommunication services by securing the necessary frequency assignments and access to orbital resources for the Republic of Poland;
- 9) the performance of duties in favour of national defence, state security and public safety and order;
- 10) keeping registers within the scope provided for in the Act;
- 11) coordination of general exclusive frequency licences within the frequency bands allocated to entities referred to in Article 4, in particular within the frequency bands released by these entities or made newly available to them or shared with other users;
- 12) (deleted);
- 13) cooperation with domestic and international telecommunications and postal organisations and with competent foreign authorities, within the competence of the President of UKE;
- 14) cooperation with the President of UOKiK on issues concerning the observance of rights of entities using postal and telecommunications services, counteracting competition-limiting practices and anticompetitive concentrations of postal operators, telecommunications undertakings and their associations;
- 15) cooperation with the National Broadcasting Council within the scope provided for in the Act and in separate regulations;
- 16) the performance of tasks within international and community telecommunications policy issues on behalf of the Minister competent for communications;
- 17) cooperation with the European Commission and European Union institutions as well as with BEREC and regulatory authorities of other Member States;
- 18) providing the European Commission, BEREC and regulatory authorities of other states with information within the scope of telecommunications, including the performance of notification duties covering the submission of resolutions referred to in Article 23 (1) and information with regard to telecommunications undertakings designated as having significant market power, providing universal service and providing interconnection as well as with regard to obligations imposed on them;
- 19) carrying out industry consultations with interested entities, in particular with operators, service providers, users, consumers and manufacturers, on issues associated with the coverage, availability and quality of telecommunications services;
- 20) providing the European Commission with information within the scope of posts, including information on:
  - a) the name and address of an operator designated to provide universal services,
  - b) the manner of making available to users of universal postal service the detailed and current information concerning the nature of services on offer, the access conditions, prices and minimum requirements with respect to end-to-end delivery time of postal items,
  - c) minimum requirements adopted in domestic traffic for end-to-end delivery time of postal items and possible divergences,

d) possible divergences from the frequency of clearing postal boxes and delivery of items with simultaneous transmission of this information to postal regulatory authorities of European Union Member States.

e) statistical data on domestic postal market and, at the request of the European Commission, information with regard to the cost calculation system employed by a designated operator;

21) inspections concerning the obligation to place delivery boxes in accordance with the obligation under the Postal Act of 23 November 2012.

1a. The President of UKE, while performing the obligation referred to in paragraph 1 (21) shall have the right to access the real property where delivery boxes are installed.

2. (deleted).

3. The President of UKE, on the basis of information acquired from telecommunications undertakings and other entities with telecommunications infrastructure or implementing investments in this regard, by 30 June, shall announce a report on the situation in the telecommunications market in the preceding year, including the coverage of the territory of the Republic of Poland with public fixed and mobile telecommunications networks and shall present investment forecasts regarding the development of these networks. The report shall be published on the UKE BIP website.

4. The President of UKE, at least every two years, shall conduct a regular review as to whether it is necessary to apply limitations referred to in Article 115 (2) (5) in decisions on general exclusive frequency licences, and shall publish its results on the UKE BIP website.

**Article 192a.** 1. The President of UKE, at least every 4 years, shall conduct a social survey on demand for universal postal services within the meaning of the Postal Act of 23 November 2012, including in particular the survey of:

1) technological, economic and social environment and associated needs of universal services users;

2) the manner of fulfilling the obligation to ensure availability and quality of universal postal services by a designated operator.

2. The results of a survey referred to in paragraph 1 shall be submitted to the minister competent for communications without delay and published on the UKE BIP website.

**Article 193.** 1. The President of UKE shall perform his/her tasks with the support of UKE.

2. UKE shall manage its financial activities in accordance with the principles applicable to budget-funded units.

3. The Minister competent for communications shall confer, by means of an order, a statute upon UKE, specifying its organisational units.

4. The statute of UKE may provide for the establishment of regional organisational units by the President of UKE. The President of UKE while establishing a regional organisational unit shall specify its seat, material and territorial jurisdiction, taking account of a basic territorial division of the country.

**Article 194.** (deleted).

**Article 195.** (deleted).

**Article 196.** (deleted).

**Article 197.** (deleted).

**Article 198.** (deleted).

## **Chapter 2**

### **Inspection and post-inspection procedure**

**Article 199.** 1. The President of UKE shall be entitled to monitor the observance of regulations, decisions and rulings concerning telecommunications, frequency management and the compliance with electromagnetic compatibility requirements.

1a. The President of UKE as a specialised authority within the meaning of the Act of 30 August 2002 on conformity assessment system, shall be entitled to control products placed on the market or put into service, referred to in:

- 1) Commission Regulation (EC) No. 1275/2008 of 17 December 2008 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for standby and off mode electric power consumption of electrical and electronic household and office equipment (OJ L 339, 18.12.2008, p. 45);
- 2) Commission Regulation (EC) No. 107/2009 of 4 February 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for simple set-top boxes (OJ L 36, 5.2.2009, p. 8);
- 3) Commission Regulation (EC) No. 278/2009 of 6 April 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for no-load condition electric power consumption and average active efficiency of external power supplies (OJ L 93, 7.4.2009, p. 3);
- 4) Commission Regulation (EC) No. 642/2009 of 22 July 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for televisions (OJ L 191, 23.7.2009, p. 42).

1b. The President of UKE as an inspecting authority within the meaning of the Act of 14 September 2012 on obligation with regard to informing about electric power consumption of products (Journal of Laws, item 1203) shall be authorised to inspect electrical products placed on the market or put into service, referred to in the Commission delegated Regulation (EU) No. 1062/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of televisions (OJ L314, 30.11.2010, p. 64).

2. The President of UKE shall be entitled to inspect apparatus available in the market, including telecommunications terminal equipment and radio equipment.

2a. Inspection and post-inspection procedures shall be instituted ex officio by the President of UKE.

3. The Minister competent for communications shall specify, by means of an ordinance, a template of an official ID of UKE employees, guided by the need to specify the scope of data placed on the ID and its date of expiry.

**Article 200.** 1. Employees of UKE shall be entitled, upon the presentation of their official ID and a written authorisation to carry out an inspection, to:

- 1) have access to materials, documents and data necessary to carry out inspections as well as make their copies;
- 2) have access to all buildings and real property as well as rooms in an inspected unit;
- 3) examine inspected telecommunications networks and apparatus;
- 4) secure from further use or seize radio equipment used without a required licence or operated by an unauthorised person for keeping in a deposit;
- 5) temporarily seize apparatus under the procedure referred to in Article 204 in order to perform tests aimed at determining the cause of harmful interference;
- 6) collect free samples of apparatus, including telecommunications terminal equipment and radio equipment, that has been placed on the market or put into service, in order to perform

tests within the scope of compliance with essential requirements by this apparatus and to keep the samples until final completion of proceedings;

6a) collect free samples of products referred to in Article 199 (1a) placed on the market or put into service and to keep samples until valid closure of the proceedings;

6b) collect free samples of products referred to in Article 199 (1b) placed on the market or put into service and to keep samples until valid closure of the proceedings;

7) carry out inspection and measurement activities, tests of telecommunications networks, telecommunications equipment and other apparatus, as well as inspect the quality of provided telecommunications services.

1a. Activities referred to in paragraph 1 (3) , (5), (6), (6a) and (7), shall refer to equipment within the meaning of the provisions of the Electromagnetic Compatibility Act of 13 April 2007.

2. The manager of an inspected unit, an authorised person or another employee of an inspected unit who may be recognized as the person referred to in Article 97 of the Civil Code Act of 23 April 1964 (Official Journal No. 16, item 93, with subsequent amendments) as well as inspected natural person shall be obliged to provide the UKE employees referred to in paragraph 1 with all required information and with:

1) appropriate conditions for efficient performance of an inspection;

2) access to materials, documents, data on the equipment, apparatus and network referred to in paragraph 1;

3) access to buildings, real property and rooms referred to in paragraph 1;

4) free access to inspected telecommunications networks, telecommunications equipment and other apparatus in order to perform tests.

3. The provisions of paragraph 2 (1) and (2) shall respectively apply to inspected natural persons.

4. The provisions of Articles 27-31 of the Trade Inspection Act of 15 December 2000 (Journal of Laws of 2009 No. 151 item 1219, of 2010 No. 182, item 1228 and of 2011 No. 63 item 322) shall respectively apply to the collection and analysis of apparatus samples within the scope of its compliance with essential requirements.

4a. The provisions of Articles 27-31 of the Act referred to in paragraph 4 and delegated acts within the meaning of Article 2 (1) of the Act referred to in Article 199 (1b) shall respectively apply to the collection and analysis of product samples referred to in Article 199 (1b).

5. The President of UKE may carry out inspections in cooperation with other national inspection authorities.

5a. Persons with specialist knowledge that are not UKE employees may participate in inspection activities, following delivery of an authorisation of the President of UKE to perform inspection activities.

6. Inspection activities may be carried out remotely. Remote measurement results should include data which allows the identification of inspection equipment.

7. An inspection shall be documented in an inspection report signed by an employee carrying out the inspection.

8. A report referred to in paragraph 7 shall be also signed by the manager of an inspected unit or an authorised individual or by an inspected natural person.

9. Regulations concerning classified information protection and the telecommunications confidentiality as well as personal data protection shall apply to inspection activities and tests referred to in paragraphs 1-5.

**Article 200a.** Provisions of chapter 5 of the Freedom of Business Act of 2 July 2004 (Official Journal of 2007, No. 155, item 1095 with subsequent amendments) shall apply to the inspection of business activities of an undertaking.

**Article 201.** 1. Where it has been established as a result of an inspection referred to in Article 199, that a telecommunications undertaking, an entity holding a general exclusive frequency licence or a numbering assignment, an entity using the frequencies under a licence, a decision referred to in Article 144a and Article 144b or entry in the register referred to in Article 144c (1) or a local government unit performing activities referred to in Article 3 (1) of the Act of 7 May 2010 on supporting the development of telecommunications networks and services, hereinafter called an “inspected entity”, fails to fulfil obligations imposed on it by the Act or a decision issued by the President of UKE, the President of UKE shall issue post-inspection recommendations in which an inspected entity is required to remove any irregularities or to provide an explanation. Irregularities should be removed or explanations provided within a time limit indicated by the President of UKE, not shorter than 30 days of the day the post-inspection recommendations are delivered to an inspected entity.

2. The President of UKE may specify, in post-inspection recommendations referred to in paragraph 1, a different period for the provision of explanations or the removal of irregularities. The period specified in the invitation may be shorter than 30 days only if an inspected entity to which the summons is addressed expressed its consent or if violations indicated in post-inspection recommendations have previously occurred.

3. If, after a period of 30 days from the delivery of post-inspection recommendations or after the period referred to in paragraph 2, an inspected entity does not remove indicated irregularities or the explanation provided is insufficient, the President of UKE shall issue a decision in which he/she orders the removal of irregularities found and may:

- 1) indicate the means an inspected entity should employ in order to remove irregularities;
- 2) specify the time limit for the removal of irregularities;
- 3) impose a penalty referred to in Article 209.

3a. In the case of telecommunications undertakings on which obligations referred to in Article 34, Articles 36-40, Article 42 or Articles 44-45 have been imposed, the President of UKE may, by means of a decision, order them to cease or to delay the provision of a telecommunications service whose continued provision could lead to significant detriment to competition, until these obligations are fulfilled.

4. Where irregularities referred to in paragraph 1 have previously occurred or are of a serious nature, and an inspected entity failed to comply with a decision referred to in paragraph 3 or 3a, the President of UKE may, by means of a decision, forbid the inspected entity to perform telecommunications activities, modify or withdraw a general exclusive frequency licence or orbital resources licence, or a numbering assignment. If the decision concerns activities consisting in the broadcasting of radio or TV programmes, the President of UKE shall issue this decision in agreement with the Chairperson of KRRiT.

5. (deleted).

6. If the reason to issue a decision referred to in paragraph 4 is a risk to defence, state security or public safety and order caused by telecommunications activities of an inspected entity, the President of UKE shall seek an opinion of the Minister of National Defence, the Minister competent for internal affairs, the Head of the Internal Security Agency or the Head of the Foreign Intelligence Agency, within their competencies, prior to issuing his/her decision. Where a justification of an opinion of these authorities includes classified information, a notification that the justification has been drawn up shall be delivered instead of the justification itself.

7. Authorities referred to in paragraph 6 shall deliver their position within 30 days to the extent necessary to decide that the activities of an inspected entity may lead to a risk to defence, state security and public safety and order.



8. Where the authorities referred to in paragraph 6 fail to deliver their position within 30 days, it shall be assumed that the requirement to obtain this position has been met.

9. The decision referred to in paragraph 4 shall be immediately enforceable. This decision shall be the basis for deleting an inspected entity from the register.

**Article 202.** 1. Where the President of UKE finds, as a result of an inspection referred to in Article 199, that an inspected entity violates obligations imposed on it in a manner that this leads to:

1) a direct and serious risk to defence, state security and public safety and order or to human life or health,

2) a risk of causing serious damage to the property or serious difficulties in the functioning of telecommunications networks or telecommunications services of telecommunications undertakings, end users or entities having the right to use the frequencies

- the President of UKE shall take action aimed at removing such risks.

2. Activities referred to in paragraph 1 may include, in particular, the issuance of a decision ordering an inspected entity to take action aimed at removing the risk, including a decision ordering it to withhold telecommunications activities. This decision shall be immediately enforceable. The President of UKE shall take action referred to in paragraph 1, having required an inspected authority to remove the irregularities or to provide explanations.

3. An inspected entity concerned by activities referred to in paragraph 1 may at any time present to the President of UKE its position and suggestions for activities aimed at removing violations resulting from its failure to fulfil obligations referred to in paragraph 1. When undertaking activities aimed at removing the risk, the President of UKE shall take account of the position and suggestions submitted by an inspected entity.

4. Activities referred to in paragraph 1 may be taken by the President of UKE also at the request of authorities competent for defence, state security and public safety and order issues. Where justifications of the request of these authorities include classified information, a notification that justifications have been drawn up shall be delivered instead of the justifications themselves.

4a. In the case where a decision ordering an inspected authority to withhold telecommunications activities is issued, the President of UKE shall specify the period for which it will remain in force, not longer than 3 months. If the risks giving rise to the issuance of that decision are not removed by an inspected entity within a required time limit, the President of UKE may extend the decision by another 3 months.

5. Without prejudice to activities referred to in paragraph 1, the President of UKE shall initiate a procedure referred to in Article 201.

**Article 203.** 1. Where it has been established that radio equipment is used without a required licence, a decision referred to in Article 144a and 144b or entry in the register referred to in Article 144c (1) or operated by an unauthorised person, the President of UKE shall issue a decision forbidding a user of the equipment to use such equipment or to operate radio equipment by an unauthorised person. This decision shall be immediately enforceable.

2. A decision referred to in paragraph 1 may include a provision to prevent further use or operation of radio equipment or to seize it for keeping in a deposit.

3. The President of UKE shall repeal the ruling on the impoundment of radio equipment issued due to:

1) the absence of a licence – with the day a licence is issued to the user, unless a court has ruled the forfeiture of the equipment;

- 2) its operation by an unauthorised person – immediately after being provided with documentation that the person operating radio equipment holds a required radio operator’s certificate.
  - 3) the absence of a decision referred to in Article 144a and Article 144b - with the day a licence is issued to the user, unless a court has ruled the forfeiture of the equipment;
  - 4) the absence of entry in the register referred to in Article 144c (1) - with the day of the radio equipment entry in the register.
4. Radio equipment seized for keeping in a deposit due to:
- 1) the absence of a licence – is returned to the user after a licence is issued, unless a court has ruled the forfeiture of the equipment;
  - 2) its operation by an authorised person – is returned to the user immediately after providing documentation that the person operating radio equipment holds a required radio operator’s certificate;
  - 3) the absence of a decision referred to in Article 144a and Article 144b - is returned to the user immediately after a decision is issued, unless a court has ruled the forfeiture of the equipment;
  - 4) the absence of entry in the register referred to in Article 144c (1) - is returned to the user immediately after radio equipment is entered in the register.
5. If a required licence is issued, a decision referred to in Article 203 (1), issued as a result of the absence of a required licence, shall expire.

**Article 204.** 1. Where it has been established that equipment within the meaning of provisions on electromagnetic compatibility generating electromagnetic causes harmful interference to the operation of another piece of equipment that complies with the essential requirements within the meaning of the provisions of the Electromagnetic Compatibility Act of 13 April 2007, the President of UKE may issue a decision on:

- 1) temporary discontinuation of the use of such piece of equipment generating harmful electromagnetic disturbances;
- 2) modification of its manner of use;
- 3) employment of technical measures leading to the elimination of harmful interference, at the expense of an entity to which the decision was issued;
- 4) temporary seizure of the equipment in order to perform tests necessary to establish the causes of such harmful interference.

This decision shall be immediately enforceable.

2. The President of UKE may make the return of the seized equipment conditional upon the user’s consent to remove at its cost the causes of this equipment non-compliance with the essential requirements, in particular the causes of harmful interference.

**Article 204a.** 1. Where it has been established that equipment within the meaning of the provisions of the Electromagnetic Compatibility Act of 13 April 2007 generating electromagnetic field may in a particular location generate harmful interference to the operation of another piece of equipment that complies with the essential requirements within the meaning of provisions on electromagnetic compatibility, the President of UKE may take action in order to clarify the circumstances in which such interference may occur, and may issue post-inspection recommendations, the compliance with which should eliminate the possibility for such interference to occur.

2. The President of UKE shall inform the European Commission and the Member States of the European Union about activities undertaken in cases referred to in Article 204 or 204a.

**Article 205.** 1. The provisions of Articles 200-204 shall not apply to entities referred to in Article 4 (1)-(6) and (8) which perform tasks specified in separate regulations in their own capacity.

2. The Prime Minister shall specify, by means of an ordinance, detailed procedures applicable to circumstances where it has been established that equipment within the meaning of provisions on electromagnetic compatibility generating electromagnetic field, used by entities referred to in Article 4 (1)-(6) and (8), causes harmful interference to the operation of another piece of equipment that complies with the essential requirements within the meaning of provisions on electromagnetic compatibility, taking account of the nature of tasks performed by these entities and the legitimate interest of a user of equipment affected by such interference.

3. The Minister competent for communications, in agreement with the Minister of Justice, shall specify, by means of an ordinance, procedures for carrying out inspection and post-inspection proceedings by the President of UKE in relation to organisational units of the Penitentiary Service, taking account of the nature of tasks performed by these units and the legitimate interest of users of equipment that is or may be affected by such interference.

### **Chapter 3** **Proceedings before the President of UKE**

**Article 206.** 1. Proceedings before the President of UKE shall be governed by the Act of 14 June 1960 Code of Administrative Procedure, with amendments resulting from this Act and the Act of 7 May 2010 on supporting the development of telecommunications networks and services.

2. The decisions:

- 1) finding significant market power,
- 2) on the imposition, withdrawal, amendment or cancellation of regulatory obligations,
- 3) on the imposition of penalties,
- 4) referred to in Article 43a and in Article 201 (3),
- 5) issued in disputes, excluding decisions on a general exclusive frequency licence following a tender, an auction or a contest and the decision finding the tender, auction or contest unresolved,
- 6) referred to in Article 7 (1), Article 13 (2), Article 20, Article 21 (2), Article 22 and Article 30 of the Act of 7 May 2010 on supporting the development of telecommunications networks and services

- are subject to appeal to the District Court in Warsaw - the Court for Competition and Consumer Protection.

2a. (deleted).

2aa. The decisions referred to in paragraph 2, excluding decisions on the imposition of penalties, shall be immediately enforceable.

2b. A complaint may be lodged against a resolution referred to in Article 23 to the District Court in Warsaw – the Court for Competition and Consumer Protection.

3. Proceedings concerning appeals and complaints referred to in paragraph 2 and 2b shall be governed by the Code of Civil Procedure on proceedings in cases within the scope of telecommunications and post regulation.

4. A complaint may not be lodged against a resolution issued under Article 106 of the Act of 14 June 1960 Code of Administrative Procedure by a body acting in cooperation with the President of UKE.

**Article 207.** 1. In proceedings conducted under the Act, the President of UKE, by means of a decision, may limit the right of the remaining parties to have access to the evidence, if access to this evidence leads to the disclosure of a company secret or other secrets protected by law.  
2. A party requesting such a limitation shall submit a version of a document which does not include the information subject to the limitation and which is made available to the parties.

**Article 207a.** 1. In proceedings on cases concerning radio licences, general exclusive frequency licences and temporary use of radio equipment in order to ensure occasional transfer of information referred to in Article 144a, the President of UKE may notify the parties of his/her decisions and other activities by means of notices published on the UKE BIP website, if the party has requested or has agreed to such form of notification.  
2. The delivery of a letter shall be considered as done on the day of publishing a notice referred to in paragraph 1 on the UKE BIP website.

## **PART XI**

### **Penal provisions and financial penalties**

**Article 208.** 1. Whoever uses a radio transmitter or a transceiver without a required licence, shall be liable to a financial penalty in the amount up to PLN 1000.  
2. If the author of the deed specified in paragraph 1 acts in a persistent manner, he/she shall be liable to a financial penalty, limitation of liberty or deprivation of liberty for up to 2 years.  
3. A court may rule the forfeiture of the equipment intended for or used in the perpetuation of acts stipulated in paragraph 1 and 2, even when such equipment is not the property of a perpetrator.  
4. A court shall rule the forfeiture of the equipment intended for or used in the perpetuation of the act stipulated in paragraph 1 and 2, even when not owned by a perpetrator, where its use poses a threat to human life or health. The provision of Article 195 of the Executive Penal Code shall apply irrespective of the value of objects in relation to which the forfeiture had been ruled.  
5. Ruling on cases involving acts referred to in paragraph 1 shall be in accordance with the provisions of the Code of procedure on cases of misdemeanours.

**Article 209.** 1. Any person who:

- 1) fails to fulfil its obligation to provide information or documents provided for in this Act or in the Act of 7 May 2010 on supporting the development of telecommunications networks and services or provides incomplete or false information or provides documents containing incomplete or false information,
- 2) performs telecommunications activities within the scope not covered by a request for entry in the register,
- 3) (deleted),
- 4) violates information obligations in relation to end users,
- 5) fails to fulfil obligations or requirements with regard to access reference offers,
- 6) fails to fulfil conditions for providing telecommunications access and the resulting settlements as specified in a decision or an agreement,
- 7) fails to fulfil an obligation to provide universal service,
- 8) (deleted),
- 9) uses frequencies, numbering or orbital resources without a necessary authorisation or inconsistently with those authorisations,
- 9a) uses radio equipment without a required entry in the equipment register referred to in Article 144c (1) or in a decision referred to in Article 144a or 144b,

- 9b) fails to use frequencies, for reasons on its part, granted under a general exclusive frequency licence for the period of at least 6 months,
- 10) fails to fulfil or fulfils in an inappropriate manner obligations or tasks in favour of defence and state security and public safety and order within the scope and under the conditions specified in the Act or in the decisions issued in pursuance thereof,
- 11) places radio equipment on the market or puts it into service without required warning marking,
- 12) fails to fulfil obligations or requirements with regard to the provision of telecommunications access referred to in Article 32,
- 12a) fails to fulfil or fulfils in an inappropriate manner detailed regulatory conditions approved by a decision referred to in Article 43a,
- 13) fails to fulfil regulatory obligations imposed in retail markets referred to in Articles 46-48,
- 13a) fails to fulfil or fulfils in an inappropriate manner obligations specified in Article 36, Article 56, Article 57 (6), Article 59, Article 60, Article 60a (1), (1b) and (4) to (5) as well as Article 61 (4) to (6) and (7),
- 13b) fails to fulfil or fulfils in an inappropriate manner the obligations specified in Article 44b-44g,
- 14) fails to meet requirements with regard to price setting, referred to in Article 61 (2),
- 14a) fails to fulfil or fulfils in an inappropriate manner obligations specified in Article 64, Article 64a and Article 65,
- 14b) fails to meet in time the obligation specified in a decision referred to in Article 62a (5),
- 15) prevents subscribers from using their right to change an assigned number, referred to in Article 69,
- 16) prevents subscribers from using their right to port an assigned number, referred to in Articles 70 and 71,
- 17) prevents subscribers from using their right to carrier selection referred to in Article 72,
- 18) fails to fulfil an obligation to provide free calls to emergency numbers, referred to in Article 77,
- 18a) fails to fulfil an obligation referred to in Article 78 (1), (2) and (5),
- 19) uses numbering inconsistently with its allocation, referred to in Article 126,
- 19a) fails to fulfil the obligations referred to in Article 131a of a multiplex operator imposed on it,
- 20) fails to fulfil obligations related to making available or using accounting separation referred to in Article 133,
- 21) fails to fulfil an obligation to provide access to an application programme interface or an electronic programme guide, referred to in Article 136,
- 22) fails to fulfil obligations or fails to apply conditions for the provision of real property or telecommunications infrastructure specified in a decision or an agreement, referred to in Article 139,
- 22a) fails to meet the conditions for shared use of and access to technical infrastructure and related settlements specified in a decision or an agreement, under the Act of 7 May 2010 on supporting the development of telecommunications networks and services,
- 22b) fails to meet the conditions resulting from decisions issued under Article 30 (1) and (3) of the Act of 7 May 2010 on supporting the development of telecommunications networks and services
- 23) places telecommunications equipment on the market or puts it into service without submitting to the President of UKE the information within the time limit and scope referred to in Article 155 (2),
- 24) violates an obligation of telecommunications confidentiality, referred to in Article 159,

- 25) fails to fulfil obligations to obtain the consent of a subscriber or an end user, referred to in Articles 161, 166, 169 and 172-174,
- 25a) as a telecommunications undertaking fails to publish on its website the information referred to in Article 175e,
- 26) processes data subject to telecommunications confidentiality, subscriber data or end user data within the scope inconsistent with Article 165,
- 27) stores information on subscriber or end user terminal equipment or uses information stored on this equipment inconsistently with the provisions of Article 173,
- 27a) fails to comply with the ban specified in a decision referred to in Article 175c (3).
- 28) fails to fulfil obligations resulting from Article 180g,
- 29) fails to fulfil obligations specified in Articles 3-5 and Articles 7-15 of the Regulation (EU) No. 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile networks within the Union,
- 30) fails to fulfil or fulfils in an inappropriate manner regulatory obligations related to regulatory accounting or cost calculation,
- 31) fails to fulfil or fulfils in an inappropriate manner the obligations to draft and submit for approval by the President of UKE and to apply a telecommunications reference access offer.
- 32) hinders or prevents the performance of inspection activities by the President of UKE - shall be liable to a financial penalty.
- 1a. The penalty referred to in paragraph 1 may be also imposed if an entity ceased to violate the law or relieved the damage caused if the President of UKE finds that the duration, scope and consequences of that violation justify so.
2. Irrespective of a financial penalty referred to in paragraph 1, the President of UKE may impose a financial penalty on a person in charge of a telecommunications undertaking, in particular a person performing managerial functions or a member of a management body of that telecommunications undertaking or of an association of such undertakings, up to 300% of his/her monthly remuneration, as calculated for the refund of unused paid holidays.
3. Financial penalties shall be subject to execution under administrative execution procedure regulations within the scope of the execution of pecuniary obligations.

**Article 210.** 1. A financial penalty referred to in Article 209 (1) shall be imposed by the President of UKE, by means of a decision, in the amount of up to 3% of the revenues of a fined entity for the past calendar year. The decision to impose a financial penalty shall not be immediately enforceable.

2. In determining the amount of a financial penalty, the President of UKE shall take account of the scope of the violation, the past record of an entity and its financial potential.

3. An entity shall provide the President of UKE, at his/her request, within 30 days of receipt thereof, with the data necessary to specify the basis of a financial penalty. Where an entity in question should fail to provide the required data or where such data should prevent the assessment of the basis of a financial penalty, the President of UKE may make his/her own assessment of the amount of a financial penalty, but never less than:

1) the amount of remuneration referred to in Article 196 (5) – for a financial penalty referred to in Article 209 (2);

2) the amount of PLN 500,000 – in the remaining cases.

4. If the period of the entity's operation is shorter than a calendar year, the basis for a financial penalty shall be established at the level of PLN 500000, and for acts referred to in Article 209 (1) (22a), if the entity had no revenue in the previous year, the basis for a financial entity shall be established at the level of PLN 10000.

5. A penalty shall be the income of the state budget.

**PART XII**  
**Amendments to applicable provisions, transitory and final provisions**

**Chapter 1**  
**Amendments to applicable provisions**

**Article 211.** Article 63 of the Act of 20 May 1971 – Code of Misdemeanours (Journal of Laws No. 12, item 114 with subsequent amendments<sup>6)</sup>) shall be hereby amended as follows:

a) §1 shall read:

"§ 1. Whoever performs telecommunications activities without having submitted a written request for entry in the register of telecommunications undertakings, shall be liable to a penalty of detention, limitation of liberty or a fine." ;

b) §2 shall be deleted;

c) §3 shall read:

"§ 3. Whoever places radio and telecommunications terminal equipment on the market or puts it into service subject to mandatory assessment of conformity with the essential requirements without required conformity marking, shall be liable to a financial penalty." ;

d) §4 shall be deleted.

**Article 212.** The Police Service Act of 6 April 1990 (Journal of Laws of 2002 No. 7, item 58 with subsequent amendments<sup>7)</sup>) shall be hereby amended as follows:

1) in Article 19 (12) the words "Operators performing telecommunications activities in public networks" shall be replaced by "Entities performing telecommunications activities";

2) in Article 20c:

a) paragraph 1 shall read:

"1. The data identifying a subscriber, network termination points or telecommunications equipment between which a call was made, and the data related to a call or attempts at setting up a call between specific pieces of telecommunications equipment or network termination points, as well as the circumstances and type of a call, may be disclosed to the Police and processed by the Police only for the purpose of preventing or detecting criminal acts.",

b) in paragraph 3, the words "telecommunications network operator" shall be replaced by "entity performing telecommunications activities",

c) in paragraph 4, the words "telecommunications networks operators" shall be replaced by "entities performing telecommunications activities",

d) in paragraph 8, the words "of a telecommunications network operator" shall be replaced by "of an entity performing telecommunications activities".

**Article 213.** The Border Guard Act of 12 October 1990 (Journal of Laws of 2002 No. 171, item 1399 with subsequent amendments<sup>8)</sup>) shall be hereby amended as follows:

1) in Article 9e (13) the words "Undertakings performing telecommunications activities in public networks" shall be replaced by "Entities performing telecommunications activities";

2) in Article 10b:

a) paragraph 1 shall read:

"1. The data identifying a subscriber, network termination points or telecommunications equipment between which a call was made, and the data related to a call or attempts at setting up a call between specific pieces of telecommunications equipment or network termination points, as well as the circumstances and type of a call, may be disclosed to the Border Guard and processed by the Border Guard only for the purpose of preventing or detecting criminal acts.",

b) in paragraph 3, the words “Undertakings performing activities in the area of telecommunications in public networks” shall be replaced by “Entities performing telecommunications activities”.

**Article 214.** The Fiscal Control Act of 28 September 1991 (Journal of Laws of 2004 No. 8, item 65, No. 64, item 594 and No. 91, item 868) shall be amended as follows:

1) In Article 36b:

a) paragraph 1 shall read:

"1. Fiscal intelligence may obtain and process the data identifying a subscriber, network termination points or telecommunications equipment between which a call was made, and the data related to a call or attempts at setting up a call between specific pieces of telecommunications equipment or network termination points, as well as the circumstances and type of a call.”,

b) in paragraph 3, the words “Telecommunications network operators” shall be replaced by “Entities performing telecommunications activities”;

2) In Article 36c (10), the words “Telecommunications network operators in public networks” shall be replaced by “Entities performing telecommunications activities”.

**Article 215.** The following paragraph 1p shall be added to Article 15 of the Corporate Income Tax Act of 15 February 1992 (Journal of Laws of 2000, No. 54, item 654 with subsequent amendments<sup>9)</sup> after paragraph 1o):

"1p. In the case of telecommunications undertakings, the tax deductible costs shall be costs determined according to paragraph 1, as well as:

1) the amount of a subsidy referred to in Article 95 (1) of the Telecommunications Act of 16 July 2004 (Journal of Laws, No. 171, item 1800),

2) the amount of an annual telecommunications fee referred to in Article 183 of the Act mentioned in point 1.”

**Article 216.** The Broadcasting Act of 29 December 1992 (Journal of Laws of 2001, No. 101, item 1114 with subsequent amendments<sup>10)</sup>) shall be hereby amended as follows:

1) In Article 26:

a) paragraph 5 shall read:

"5. The Chairperson of the National Broadcasting Council, in agreement with the President of the Office of Telecommunications and Post Regulation, shall reserve, by means of a decision, the frequencies required for the companies to perform their statutory tasks and shall specify the conditions for the use of such frequencies. Any general exclusive frequency licences, modifications or withdrawals thereof within the scope provided for by Article 37 (1) (3) shall be governed by the provisions of Article 114 and Article 115 of the Telecommunications Act of 16 July 2004 (Journal of Laws, No. 171, item 1800) respectively.”,

b) Paragraph 8 shall read:

"8. Article 115 (3) of the Telecommunications Act of 16 July 2004 (Journal of Laws, No. 171, item 1800) shall apply to a general exclusive frequency licence for digital broadcasting of programmes, whether terrestrial or satellite.”;

2) Article 37a (3a) shall read:

“3a. Where digital broadcasting of radio or television programmes should require a general exclusive frequency licence, such licence shall be made in conjunction with an individual licence. General exclusive frequency licences, modifications and withdrawals shall be governed by Article 114 and Article 115 of the Telecommunications Act.”.



**Article 217.** In the Military Police Act of 24 August 2001 (Journal of Laws No. 123, item 1353 with subsequent amendments<sup>11</sup>) in Article 30:

a) paragraph 1 shall read:

"1. The data identifying a subscriber, network termination points or telecommunications equipment between which a call was made, and the data related to a call or attempts at setting up a call between specific pieces of telecommunications equipment or network termination points, as well as the circumstances and type of a call, may be disclosed to the Military Police and processed by the Military Police only for the purpose of preventing or detecting criminal acts."

b) in paragraph 3, the words "Undertakings performing activities in the area of telecommunications in public networks" shall be replaced by "Entities performing telecommunications activities".

**Article 218.** The Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002 (Journal of Laws No. 74, item 676 with subsequent amendments<sup>12</sup>) shall be hereby amended as follows:

1) in Article 27 (12) the words "Operators performing telecommunications activities in public networks" shall be replaced by "Entities performing telecommunications activities";

2) In Article 28:

a) in paragraph 1, point 1 shall read:

"1) identifying a subscriber, network termination points or telecommunications equipment and the data related to the fact, circumstances and type of a call or an attempt at setting up a call between specific pieces of telecommunications equipment or network termination points;"

b) in paragraph 1 (2) after the words "network termination points", the words "or telecommunications equipment" shall be added,

c) in paragraph 2, the words "a telecommunications network operator" shall be replaced by "an entity performing telecommunications activities";

d) in paragraph 3, the words "a telecommunications network operator" shall be replaced by "an entity performing telecommunications activities";

e) in paragraph 4, the words "a telecommunications network operators" shall be replaced by "entities performing telecommunications activities".

**Article 219.** The Military Information Services Act of 9 July 2003 (Journal of Laws No. 139, item 1326 and No. 179, item 1750 and of 2004 No. 19, item 177) shall be hereby amended as follows:

1) in Article 26 (5), the words "Operators providing telecommunications services in public networks" shall be replaced by "Entities performing telecommunications activities";

2) In Article 27:

a) in paragraph 1, point 1 shall read:

"1) identifying a subscriber, network termination points or telecommunications equipment and the data related to the fact, circumstances and type of a call or an attempt at setting up a call between specific pieces of telecommunications equipment or network termination points;"

b) in paragraph 1 (2) after the words "network termination points", the words "or telecommunications equipment" shall be added,

c) in paragraph 2, the words "a telecommunications network operator" shall be replaced by "an entity performing telecommunications activities";

d) in paragraph 3, the words "a telecommunications network operator" shall be replaced by "an entity performing telecommunications activities";

e) in paragraph 4, the words “A telecommunications network operator” shall be replaced by “An entity performing telecommunications activities”.

**Article 220.** The Postal Act of 12 June 2003 (Journal of Laws No. 130, item 1188 and of the year 2004 No. 69, item 627 and No. 96, item 959) shall be hereby amended as follows:

1) in Article 62, paragraph 1 shall read:

"1. A sender or an addressee shall have the right to vindicate claims specified in the Act resulting from relations with an operator which provides universal postal services within the scope of providing universal postal services, in court proceedings, in the proceedings referred to in Article 62a, or in the proceedings before a permanent consumer arbitration court, having exhausted the complaint procedure,

2) The following Articles 62a and 62b shall be added after Article 62:

"Article 62a. 1. A civil dispute between a consumer and an operator providing postal services may be resolved in a conciliatory manner by means of mediation proceedings.

2. Mediation proceedings shall be conducted by the President of URTiP at a consumer's request or ex officio, where the protection of consumer interests requires so.

3. During mediation proceedings, the President of URTiP shall acquaint an operator referred to in paragraph 1 with a consumer's claim, present the parties to a dispute with legal regulations applicable to the case and a possible proposal for resolving the dispute in a conciliatory manner.

4. The President of URTiP may specify a time limit for the parties to resolve the case in a conciliatory manner.

5. The President of URTiP may abandon mediation proceedings where the case has not been resolved in a conciliatory manner within a specific time limit or where at least one of the parties declares that it does not agree to resolve the case in a conciliatory manner.

Article 62b. Permanent consumer arbitration courts under the care of the President of URTiP shall operate under the principles specified in Article 110 of the Telecommunications Act of 16 July 2004 (Journal of Laws No. 171, item 1800).”.

## **Chapter 2**

### **Transitional provisions**

**Article 221.** 1. A telecommunications undertaking designated as an operator with significant market power prior to the date of entry into force of this Act or an operator in relation to whom a decision designating significant market power has been issued after this decision becomes effective, within the scope of:

1) the provision of telephone services in public fixed telephone networks – shall perform obligations referred to in:

a) Article 33 – within the scope of interconnection,

b) Article 34 (2) (2) – within the scope of access to a local loop or a sub-loop, for full access or shared access, together with collocation and access to cable lines and relevant information systems,

c) Article 34 (2) (5) – within the scope of access to buildings and telecommunications infrastructure, whereas the fees for access to buildings or telecommunications infrastructure should be based on transparent and objective criteria to ensure equal treatment of users,

d) Article 34 (2) (10) – within the scope of satisfying all reasonable requests related to access to its network, including a request for the provision of access to its network at every technically justified point of this network other than a network termination point, whereas the request shall be deemed justified if an interconnected network has been constructed in accordance with legal regulations,

- e) Article 34 (2) (11),
  - f) Article 36 – within the scope of interconnection,
  - g) Article 37 (1) – within the scope of providing telecommunications undertakings that intend to conclude an interconnection agreement with the information necessary to draw up this agreement,
  - h) Article 38 – within the scope of interconnection,
  - i) Article 39 – within the scope of interconnection, and where the calculation of costs under an obligation imposed in Article 39 is not possible, the President of URTiP may, by means of a decision, impose an obligation to adjust the fees in an appropriate manner, taking account of the level of fees used in comparable competitive markets,
  - j) Article 42 (1) – within the scope of interconnection, the leased line service, access to buildings and telecommunications infrastructure and access to the local loop,
  - k) Article 43 (6) – within the scope of interconnection, the leased line service, access to buildings and telecommunications infrastructure and access to the local loop,
  - l) Article 46 (3) (3) and (3) (4),
  - m) Article 72;
- 2) the provision of telephone services in public mobile telephone networks – shall perform obligations referred to in:
- a) Article 33 – within the scope of interconnection,
  - b) Article 34 (2) (5) – within the scope of access to buildings and telecommunications infrastructure,
  - c) Article 34 (2) (10) – within the scope of satisfying all reasonable requests related to access to its network, including the request for the provision of access to its network at every technically justified point of this network other than a network termination point if an interconnected network has been constructed in accordance with legal regulations, whereas the relevant fees should be fixed based on transparent and objective criteria to ensure equal treatment of users,
  - d) Article 34 (2) (11),
  - e) Article 36 – within the scope of interconnection,
  - f) Article 37 (1) – within the scope of providing a telecommunications undertaking that intends to conclude an interconnection agreement with the information necessary to draw up this agreement;
- 3) the provision of telecommunications leased line services – shall perform obligations referred to in:
- a) Article 33 – within the scope of interconnection,
  - b) Article 34 (2) (5) – within the scope of access to buildings and telecommunications infrastructure,
  - c) Article 34 (2) (10) – within the scope of satisfying all reasonable requests related to access to its network, including the request for the provision of access to its network at every technically justified point of this network other than a network termination point, whereas the request shall be deemed justified if an interconnected network has been constructed in accordance with legal regulations,
  - d) Article 34 (2) (11),
  - e) Article 36 – within the scope of interconnection,
  - f) Article 37 (1) – within the scope of providing a telecommunications undertaking that intends to conclude an interconnection agreement with the information necessary to draw up this agreement;
  - g) Article 38 – within the scope of interconnection,
  - h) Article 39 – within the scope of interconnection, and where the calculation of costs under an obligation imposed in Article 39 is not possible, the President of URTiP may, by means of

a decision, impose an obligation to adjust the fees in an appropriate manner, taking account of the level of fees used in comparable competitive markets,

i) Article 42 (1) – within the scope of interconnection, access to buildings and telecommunications infrastructure and the leased line service,

j) Article 43 (6) – in the scope of network interconnection, building and telecommunications infrastructure access and the line lease service,

k) Article 46 (3) point (3) and (4),

l) Article 47;

4) the provision of services in the domestic interconnection market, including on-net calls – shall perform obligations referred to in:

a) Article 33 – within the scope of interconnection,

b) Article 34 (2) (5) – within the scope of access to buildings and telecommunications infrastructure,

c) Article 34 (2) (10) – within the scope of satisfying all reasonable requests related to access to its network, including the request for the provision of access to its network at every technically justified point of this network other than a network termination point, whereas the request shall be deemed justified if an interconnected network has been constructed in accordance with legal regulations,

d) Article 34 (2) (11),

e) Article 36 – within the scope of interconnection,

f) Article 37 (1) – within the scope of providing a telecommunications undertaking that intends to conclude an interconnection agreement with the information necessary to draw up this agreement;

g) Article 38 – within the scope of interconnection,

h) Article 39 – within the scope of interconnection, and where the calculation of costs under an obligation imposed in Article 39 is not possible, the President of URTiP may, by means of a decision, impose an obligation to adjust the fees in an appropriate manner, taking account of the level of fees used in comparable competitive markets,

i) Article 46 (3) point (3) and (4).

2. The imposition of obligations under paragraph 1 on telecommunications undertakings shall be treated as equivalent to imposing these obligations by means of a decision of the President of URTiP under the procedure provided for in the Act.

3. The provision of paragraph 1 shall apply until the day on which the relevant decisions referred to in Article 25 become effective.

4. Prior to the appointment of telecommunications undertakings designated to provide universal service, an obligation to provide this service shall be performed by an undertaking which has been deemed, under previous regulations, to be a public operator with significant market power within the scope of providing telephone services in public fixed telephone networks.

5. During the period when paragraph 1 applies or within the period referred to in paragraph 4, telecommunications undertakings shall perform obligations referred to in these provisions, applying secondary legislation issued under the Telecommunications Act of 21 July 2000 (Journal of Laws No. 73, item 852, with subsequent amendments<sup>13</sup>).

**Article 222.** 1. Subject to Article 226, the previous provisions shall apply to cases initiated and not completed before the date of entry into force of this Act.

2. The provisions of this Act shall apply to cases initiated under Article 40 (2) of the Telecommunications Act of 21 July 2000 and not completed before to the date of entry into force of this Act.

3. Previous provisions shall apply to cases completed within the framework of administrative proceedings and not completed during the course of appeal proceedings.

**Article 223.** Executive provisions issued under the Telecommunications Act of 21 July 2000 shall remain effective until new executive provisions are issued under this Act, however, not longer than for a period of 12 months following the date of entry into force of this Act.

**Article 224.** 1. A telecommunications undertaking that at the date of entry into force of this Act holds a telecommunications authorisation or a registration of telecommunications activities under previous regulations shall be entered into the register by the President of URTiP ex officio and shall be issued with a certificate within 8 months of the date of entry into force of this Act.

2. A telecommunications undertaking performing telecommunications activities not requiring a telecommunications authorisation or a registration of telecommunications activities under previous provisions, shall submit a request for entry in the register referred to in Article 10 (4) within 60 days of the date of entry into force of this Act.

3. A telecommunications undertaking referred to in paragraph 1 may, under the rules specified in the Act, perform telecommunications activities within the scope specified in its telecommunications authorisation or resulting from the registration of telecommunications activities.

4. Where the information included in an authorisation or a registration referred to in paragraph 1 does not contain all the data referred to in Article 10 (4), the President of URTiP may request a telecommunications undertaking to supplement the required information within 30 days of the date of delivering the request.

5. Following the expiry of a time limit referred to in paragraph 2 without any effect, the President of URTiP shall issue a decision on deleting a telecommunications undertaking from the register.

6. Telecommunications authorisations and notifications of telecommunications activities shall remain in force until the entry in the register referred to in paragraph 1 is made.

7. Telecommunications undertakings referred to in paragraph 1 which have financial obligations towards the National Treasury due to license fees, shall perform them under the previous rules.

8. The provisions of this Act shall be without prejudice to the provisions of the Act of 23 November 2002 on restructuring license obligations of public fixed telephone network operators (Journal of Laws No. 233, item 1956).

**Article 225.** Undertakings or other entities entitled to perform business activities under separate provisions and which have operated an internal network or have provided services within an internal network under separate provisions prior to the date of entry into force of this Act, may perform their previous activities provided that they submit a request for entry in the register within 8 months of the date of entry into force of this Act.

**Article 226.** Requests for issuing a telecommunications authorisation not conclusively decided prior to the date of entry into force of this Act, and registrations of telecommunications activities, in which the period allowing the commencement of activities included in the registration has not yet passed, shall be treated as requests for entry in the register.

**Article 227.** 1. General exclusive frequency licences and numbering assignments made prior to the date of entry into force of this Act, including those included in telecommunications

authorisations, shall respectively become general exclusive frequency licences or numbering assignments within the meaning of this Act.

2. Radio licences and radio operator's certificates within the meaning of previous regulations shall respectively become radio licences or radio operator's certificates within the meaning of this Act.

3. The provisions of Article 122 (1) (1), (1) (3), (2) and (3) and Article 123 shall respectively apply to general exclusive frequency licences and radio licences issued prior to the date of entry into force of this Act.

**Article 228.** 1. The President of URTiP appointed under the previous provisions shall continue in his/her function until the end of the term.

2. URTiP employees shall become URTiP employees within the meaning of the provisions of this Act on the date of entry into force of this Act.

3. Regional offices comprising URTiP prior to the date of entry into force of this Act shall become regional offices within the meaning of this Act.

4. Members of the Telecommunications Council and Postal Services Council appointed under the previous provisions shall perform their duties until the end of their term.

**Article 229.** Until 31 December 2004, URTiP shall be financed from a budget part allocated to URTiP functioning.

**Article 230.** A public operator with a telecommunications authorisation for the operation of a network intended for the broadcasting or re-broadcasting of radio or TV programmes prior to the date of entry into force of this Act, shall have an obligation to pay a fee referred to in Article 30 (2) of the Telecommunications Act of 21 July 2000 for the year 2004.

**Article 231.** A fee referred to in Article 183 shall be paid for the year 2005 by a telecommunications undertaking which had performed telecommunications activities for at least 2 years prior to the date of entry into force of this Act.

**Article 232.** The requirements referred to in Article 148 (1) (3) (a) shall not apply to radio equipment used under licences issued prior to the date of entry into force of this Act.

**Article 233.** Apparatus, including radio equipment and telecommunications terminal equipment without conformity marking, placed on the market or used under the provisions in force prior to the date of entry into force of this Act, may continue to be used provided that it does not cause interference to the operation of other apparatus.

### **Chapter 3** **Final provisions**

**Article 234.** The Telecommunications Act of 21 July 2000 (Journal of Laws No. 73, item 852, with subsequent amendments<sup>14</sup>) shall become null and void, with the exception of Article 25 (5), Article 27 (3), Articles 30-33 and Article 112 (5) and (6), which shall become null and void on 31 December 2004.

**Article 235.** This Act shall enter into force following 30 days of its announcement, with the exception of Article 81 (5), Article 100, Article 118 (7), Article 150 (3), Article 180 (2) and Articles 183-185, which shall enter into force on 1 January 2005.

---

\_\_\_\_\_

<sup>1)</sup> This act implements within the scope of its regulation the following Directives of the European Communities:

- 1) Directive 2002/21/EC of 7 March 2002 on a common regulatory framework for electronic communications networks and services (OJ L 108, 24.4.2002);
- 2) Directive 2002/20/EC of 7 March 2002 on the authorization of electronic communications networks and services (OJ L 108, 24.4.2002);
- 3) Directive 2002/19/EC of 7 March 2002 on access to, and interconnection of, electronic communications networks and services (OJ L 108, 24.4.2002);
- 4) Directive 2002/22/EC of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (OJ L 108, 24.4.2002);
- 5) Directive 2002/58/EC of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002);
- 6) Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ L 249, 17.9.2002);
- 7) Directive 1999/5/EC of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999);
- 8) Directive 89/336/EEC of 3 May 1989 on the approximation of the law of Member States relating to electromagnetic compatibility (OJ L 139, 23.5.1989).

Data relating to the publishing of European Union legal acts included in this Act – commencing on the day of the Republic of Poland's accession to the European Union – refers to the publishing of these acts in the Official Journal of the European Union – special edition.

<sup>2)</sup> The amendments to the consolidated text of the aforementioned Act were published in the Journal of Laws of 2002 No. 25, item 253 and No. 56, item 517, of 2003 No. 96, item 874 and of 2004 No. 91, item 874.

<sup>3)</sup> The amendments to the consolidated text of the aforementioned act were published in the Journal of Laws of 2003, No. 60, item 535, No. 124, item 1152, No. 139, item 1324 and No. 229, item 2276, of 2004 No. 96, item 959, No. 145, item 1535, No. 146, item 1546 and No. 213, item 2155 and of 2005 No. 10, item 66 and No. 184, item 1539.

<sup>4)</sup> The amendments to the consolidated text of the aforementioned Act were published in the Journal of Laws of 2005 No. 64, item 565 and No 267, item 2258 and of 2006 No. 170, item 1217, No. 235, item 1700 and No. 249, item 1832 and 1834.

<sup>5)</sup> Directive 1999/5/EC of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity (OJ L 91, 7.4.1999, p. 10);

<sup>6)</sup> The amendments to the aforementioned Act were published in the Journal of Laws of 1981 No. 24, item 124, of 1982 No. 16, item 125, of 1983 No. 6, item 35 and No. 44, item 203, of 1984 No. 54, item 275, of 1985 No. 14, item 60 and No. 23, item 100, of 1986 No. 39, item 193, of 1988 No. 20, item 135 and No. 41, item 324, of 1989 No. 34, item 180, of 1990, No. 51, item 297, No. 72, item 422 and No. 86, item 504, of 1991 No. 75, item 332 and No.91, item 498, of 1992 No. 24, item 101, of 1994 No. 123, item 600, of 1995, No. 6, item 29, No. 60, item 310 and No. 95, item 475, of 1997 No. 54, item 349, No. 60, item 369, No. 85, item 539, No. 98, item 602, No. 104, item 661, No. 106, item 677, No. 111, item 724, No. 123, item 779, No. 133, item 884 and No. 141, item 942, of 1998 No. 113, item 717, of 1999 No. 83, item 931 and No. 101, item 1178, of 2000 No. 22, item 271, No. 73, item 852, No. 74, item 855 and No. 117, item 1228, of 2001 No. 100, item 1081, No, 106, item 1149, No. 125, item 1371, No. 128, item 1409 and No. 129, item 1438, of 2002 No. 19, item 185, No. 25,

item 253 and No. 135, item 1145 and of 2004 No. 11, item 95, No. 62, item 576 and No. 69, item 626 and No. 93, item 891.

7) The amendments to the consolidated text of the aforementioned Act were published in the Journal of Laws of 2002, No. 19, item 185, No. 74, item 676, No. 81, item 731, No. 113, item 984, No. 115, item 996, No. 153, item 1271, No. 176, item 1457 and No. 200, item 1688 and of 2003 No. 90, item 844, No. 113, item 1070, No. 130, item 1188 and 1190, No. 137, item 1302, No. 166, item 1609, No. 192, item 1873 and No. 210, item 2036.

8) The amendments to the consolidated text of the aforementioned Act were published in the Journal of Laws of 2003 No. 90, item 844, No. 113, item 1070, No. 128, item 1175, No. 137, item 1302, No. 166, item 1609 and No. 210, item 2036 and of 2004 No. 29, item 257.

9) The amendments to the consolidated text of the aforementioned Act were published in the Journal of Laws of 2000 No. 60, item 700 and 703, No. 86, item 958, No. 103, item 1100, No. 117, item 1228 and No. 122, item 1315 and 1324, of 2001 No. 106, item 1150, No. 110, item 1190 and No. 125, item 1363, of 2002 No. 25, item 253, No. 74, item 676, No. 93, item 820, No. 141, item 1179, No. 169, item 1384, No. 199, item 1672, No. 200, item 1684 and No. 230, item 1922, of 2003 No. 45, item 391, No. 96, item 874, No. 137, item 1302, No. 180, item 1759, No. 202, item 1957, No. 217, item 2124 and No. 223, item 2218 and of 2004 No. 6, item. 39, No. 29, item 257, No. 54, item 535, No. 93, item 894, No. 116, item 1203, No. 121, item 1262, No. 123, item 1291 and No. 146, item 1546.

10) The amendments to the consolidated text of the aforementioned Act were published in the Journal of Laws of 2002 No. 25, item 253 and No. 56, item 517, of 2003 No. 96, item 874 and of 2004 No. 91, item 874.

11) The amendments to the aforementioned Act were published in the Journal of Laws of 2001, No. 154, item 1800, of 2002 No. 74, item 676 and No. 89, item 804, of 2003 No. 113, item 1070 and No. 139, item 1326 and of 2004 No. 116, item 1203.

12) The amendments to the aforementioned Act were published in the Journal of Laws of 2003, No. 90, item 844, No. 113, item 1070, No. 130, item 1188 and No. 166, item 1609 and of 2004 No. 109, item 1159.

13) The amendments to the aforementioned Act were published in the Journal of Laws of 2001 No. 122, item 1321 and No. 154, item 1800 and 1802, of 2002 No. 25, item 253, No. 74, item 676 and No. 166, item 1360 and of 2003 No. 50, item 424, No. 113, item 1070, No. 130, item 1188 and No. 170, item 1652.

14) The amendments to the aforementioned Act were published in the Journal of Laws of 2001 No. 122, item 1321 and No. 154, item 1800 and 1802, of 2002 No. 25, item 253, No. 74, item 676 and No. 166, item 1360 and of 2003 No. 50, item 424, No. 113, item 1070, No. 130, item 1188 and No. 170, item 1652.