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**REPUBLIC OF LITHUANIA**  
**LAW ON ELECTRONIC COMMUNICATIONS**

15 April 2004 No IX-2135

(As last amended on 15 December 2016 – No XIII-105)

Vilnius

**CHAPTER ONE**  
**GENERAL PROVISIONS**

**Article 1. Purpose, aim and scope of the law**

1. This Law shall regulate social relations pertaining to electronic communications services and networks, associated facilities and services, use of electronic communications resources as well as social relations pertaining to radio equipment, terminal equipment and electromagnetic compatibility.

2. This Law shall not regulate any social relations pertaining to the services delivered using networks and services referred to in paragraph 1 as well as any content conveyed over electronic communications networks and any services associated with such content.

3. European Union legal acts that are directly applicable and that regulate the subject of this Law shall be implemented in accordance with the provisions of this Law (including the settlement of relevant disputes and imposition of sanctions) without prejudice to the conditions of such legal acts and the competence of European Union institutions.

4. State institutions that apply this Law within the scope of their competence shall take into account the relevant recommendations of the Commission of the European Communities. Where state institutions make a reasoned decision not to comply with the said recommendations, they shall notify the Commission of the European Communities about it indicating the reasons for such a decision.

5. This Law is aimed at promoting the objectives of European Union regulatory framework for electronic communications, including the promotion of competition in providing electronic communications networks and services as well as associated facilities and services, the protection of user interests and the development of the internal market.

6. This Law has the objective of regulating electronic communications activities in the Republic of Lithuania within the framework of the requirements of European Union legal acts listed in Annex 2 to this Law.

## **Article 2. Regulatory framework for electronic communications activities**

1. The regulation of electronic communications activities shall be based on the principles of effective management and use of limited resources, technological neutrality, functional equivalence, proportionality, minimal necessary regulation, legal certainty in a dynamic market, economic development, ensuring effective competition, consumer rights protection, objectivity of regulatory criteria, conditions and procedures, transparency and non-discrimination.

2. The principle of technological neutrality shall mean that legal norms must be applied taking into account the objectives to be achieved and ensuring, to a reasonable extent, that their application does not encourage or discriminate the use of specific technologies as well as ensuring that the legal norms are applied, as far as possible, disregarding the technologies employed in the provision of electronic communications networks or services related to a specific legal relationship.

3. The principle of functional equivalence shall mean that the application of the legal norms should be as uniform as possible in respect of electronic communications networks or services with analogous functions.

4. When applying the legal norms regulating electronic communications activities, due account must be taken of the principles referred to in paragraph 1 of this Article. These principles should be harmonised without giving priority to any of them and applied with due regard to the purpose and objectives set out in Article 1 of this Law.

## **Article 3. Definitions**

1. **Subscriber** shall mean any person who or which is party to a contract for the provision of public electronic communications services with the provider of such services.

2. **Equipment and/or devices** shall mean

electrical and/or electronic products and equipment containing electrical and/or electronic components.

3. **Protected services** shall mean services provided against remuneration and on the basis of conditional access, such as broadcasting of television and radio programmes by wire or over the air, including by satellite, intended for the reception by the public as well as information society services or the provision of conditional access to the above mentioned services, considered as a service in its own right.

4. **Breach of personal data protection** shall mean a breach because of which personal data are accidentally or unlawfully destroyed, lost, altered, disclosed without the consent of a person or a possibility is created to use these data when they are transmitted, stored or otherwise processed when providing public electronic communications services.

5. **Person** shall mean a natural person or a legal person established in the Republic of Lithuania, a legal person or another organization, or their branch established in another Member State of the European Union or the European Economic Area.

6. **Unbundled access to the local loop** shall mean full unbundled access to the local loop and shared access to the local loop. The provision of unbundled access does not entail a change in ownership of the local loop.

7. **Local sub-loop** shall mean a partial local loop connecting the network termination point to a concentration point or a specified intermediate access point in the public fixed network.

8. **Electromagnetic disturbance** shall mean any electromagnetic phenomenon which may degrade the performance of equipment and/or devices. An electromagnetic disturbance may be electromagnetic noise, an unwanted signal or a change in the environment of radio wave propagation.

9. **Electromagnetic compatibility** shall mean the ability of equipment and/or devices to function satisfactorily in an electromagnetic environment without emitting intolerable electromagnetic disturbances which can be harmful to anything in that environment.

10. **Electronic communications** shall mean the conveyance of signals by wire, radio, optical or other electromagnetic means.

11. **Electronic mail** shall mean any text, voice, sound, image message or message of any other form sent over a public communications network which can be stored in the network or in the user's terminal equipment until it is collected by the user.

12. **Electronic communications infrastructure** shall mean the totality of physical infrastructure which is comprised of equipment, devices, including antennas, lines, pipes, cables, ducts, collectors, manholes, retaining structures, towers, masts, buildings, building inlets, building engineering systems, distribution cabinets and other measures intended for electronic communications activities.

12<sup>1</sup>. **Physical infrastructure suitable for installing and/or sharing the electronic communications infrastructure** (hereinafter: 'suitable purpose physical infrastructure') shall mean gas, electricity, including public lighting, heating, water, including wastewater management infrastructure and drainage systems, production, distribution, transmission, supply or management infrastructure, railways, roads, ports, airports infrastructure, and other physical infrastructure (pipelines, cable ducts, collectors, manholes, retaining structures, including towers, masts, buildings, building inlets, building engineering systems, etc.) suitable for installing the electronic communications infrastructure and/or sharing it with the provider of public communications networks.

13. **Electronic communications resources** shall mean radio frequencies (channels), telephone numbers and other electronic communications networks identifiers, such as radio call signs, orbital resources, including the position in a geostationary orbit, and other resources necessary to carry out electronic communications activities, use electronic communications networks or radio equipment or terminal equipment and provide electronic communications services.

14. **Assignment of electronic communications resources** shall mean granting the right to use electronic communication resources in accordance with the conditions set by the Communications Regulatory Authority of the Republic of Lithuania (hereinafter: 'the Communications Regulatory Authority') by issuing an authorization.

15. **Electronic communications service** shall mean a service which is normally provided for remuneration and which consists wholly or mainly in the conveyance of signals via electronic communications networks, including telecommunications services and transmission services over networks used for broadcasting (re-broadcasting). Electronic communications services shall exclude services of providing, or exercising editorial control over the content of information transmitted using electronic communications networks or services; it does not include information society services which do not consist wholly or mainly of the conveyance of signals over electronic communications networks.

16. **Electronic communications network** shall mean transmission systems and/or switching or routing equipment and other facilities, including passive network elements, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including the Internet) and mobile terrestrial networks, powerline systems (to the extent that they are used for the purpose of transmitting signals), networks used for radio and/or television broadcasting (re-broadcasting), and cable television and microwave multi-channel television networks, irrespective of the type of information conveyed.

17. **Provision of electronic communications network** shall mean the establishment, operation, control and/or making available of such network.

18. **Electronic communications network identifiers** shall mean the addressing facilities identifying electronic communications network points, including network termination points, or terminal equipment connected to an electronic communications network in order to direct information specifically to these electronic communications network points or the relevant terminal equipment or to identify the sender of information.

19. **Electronic communications activity** shall mean the provision of electronic communications networks and/or services.

20. **European Union market** shall mean the respective market defined by the European Commission that covers the European Union or a large part of it comprising more than one Member State.

21. **Actual user of electronic communications services** shall mean a natural person using public electronic communications services for his personal or business purposes. This person shall not necessarily be a subscriber.

22. **Terminal equipment** shall mean equipment, or relevant component thereof, capable of receiving and/or sending information and intended to be connected directly or indirectly by any means whatsoever to public communications networks.

23. **End user** shall mean a user not providing public communications networks or public electronic communications services.

24. **Information society services** shall mean any services normally provided for remuneration, at a distance, by electronic means and at the individual request of a user.

24<sup>1</sup>. **Infrastructure user** – a provider of the public communications network who requests to conclude or has concluded an agreement on the joint installation and/or shared use of the electronic communications infrastructure, and/or suitable purpose physical infrastructure with the infrastructure manager.

25. **Shared access to the local loop** shall mean the provision to a local loop beneficiary of access to the local loop or local sub-loop of an operator bound by the procedure and conditions set out in this Law, authorising the use of the part of this loop including the non-voice band frequency spectrum.

26. **Exclusive rights** shall mean the rights that are granted by the State to an undertaking, reserving it the right to provide a number of services or to engage in an electronic communications activity and/or other activity within a given geographical area.

27. **Extraordinary circumstances** shall mean a state of emergency or marshal law, emergencies, including natural disasters, force majeure and other similar circumstances.

28. **Cable television network** shall mean any mainly wire-based infrastructure established primarily for the delivery or distribution of radio or television programmes to the public.

29. **National radio frequency allocation table** shall mean a document approved by the Communications Regulatory Authority setting out the allocation of radio frequencies for radio communication, including broadcasting, industry, research, medical and other needs.

30. **User identification code** shall mean a unique code of the user of electronic communications services.

31. **Unsuccessful call** shall mean the connection when the call has been successfully connected but not answered or a network management intervention has occurred.

31<sup>1</sup>. **Radiodetermination** shall mean the determination of location, speed and/or other parameters of an object or the obtaining of information on these parameters, by means of the propagation properties of radio waves.

32. **Operator** shall mean an undertaking providing or authorised to provide a public communications network or an associated facility.

33. **User** shall mean a person using or requesting public electronic communications services.

34. **Enhanced digital television equipment** shall mean set-top boxes intended for connection to television sets or integrated digital television sets able to receive digital interactive television services.

35. **Wide-screen digital television service** shall mean a television service that consists wholly or partially of programmes produced and edited to be displayed in a full

height wide-screen format. The 16:9 format is the reference format for wide-screen television services.

36. **Communication** shall mean the information which is transmitted or, when using public electronic communications services, exchanged by a finite number of users of public electronic communications services. Information transmitted by electronic communications networks as part of a broadcasting service, except that part of it which consists of custom information to the identified subscriber or user of public electronic communications services, shall not be considered a communication.

37. **Value-added service** shall mean, to the extent that it is related to the personal data processing and privacy protection, service which requires processing of traffic or location data comprising a larger amount of data than it is necessary for information transmission or billing thereof.

38. **Access** shall mean provision, in accordance with the set conditions, of electronic communications infrastructure, including premises, networks, and/or services to another undertaking on an exclusive or non-exclusive basis for providing of electronic communications services, including the cases when electronic communications services are used to transmit information society services and broadcasting (re-broadcasting) services. It covers *inter alia*:

- 1) access to network elements and associated facilities which may involve the connection of equipment, by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop);
- 2) access to physical infrastructure including buildings, cable ducts and masts;
- 3) access to software systems including operational support systems;
- 4) access to information systems or databases for orders, including pre-orders, as well as submitting requests for the provision, maintenance and repair, and billing;
- 5) access to number translation or systems offering equivalent functionality;
- 6) access to fixed and mobile networks, in particular for roaming;
- 7) access to conditional access systems for digital television services;
- 8) access to virtual network services.

39. **Radio waves** electromagnetic waves of frequencies lower than 3,000 GHz, freely propagated in space.

40. **Radio amateur** shall mean a natural person engaged in a radio communication activity for personal purposes not related to business and without pecuniary interest.

41. **Radio equipment** shall mean electrical or electronic equipment which is designed to emit and/or to accept radio waves for the purpose of radio communication, as well as radiodetermination, together with an auxiliary device, for example, an antenna, or without it. 42. **Radio communication channel** shall mean a radio frequency band assigned for a specified totality of technical facilities and radio wave propagation environment, intended for the transmission and reception of specific information.

43. **Radio Regulations** shall mean an official publication of the International Telecommunication Union establishing radio communication management.

44. **Radio station** shall mean one or more transmitters or receivers or a combination of transmitters and receivers and auxiliary equipment necessary for carrying out activities of radio communication or radio astronomy services at a particular location.

45. **Radio communication** shall mean the conveyance, transmission and/or reception of information by means of radio waves.

46. **Radio monitoring** shall mean the control of radio wave environment parameters.

47. **Radio disturbance** shall mean electromagnetic disturbances occurring within the radio wave range.

48. **Radio interference** shall mean the degradation of the performance of equipment and/or device, radio communication or a radio system due to radio disturbances.

49. **Registered user of electronic communications services** shall mean the person who, not being a subscriber of public electronic communications services, is identified by an electronic communications service user identification code, and the information submitted at the moment of registration.

50. **Communications cable duct system** shall mean a part of electronic communications infrastructure consisting of communications cable ducts, pipes, wells and other facilities (manholes, lids, locks, communications cable supports, brackets, adjustment rings, etc.) intended to thread and/or unthread, merge, repair communications cables, and install other electronic communications equipment and protect it.

51. **Conditional access** shall mean technical measure and/or arrangement whereby access to the protected service is made conditional upon prior individual authorisation of the service provider.

52. **Interface** shall mean a network termination point and/or an air interface specifying the radio path between radio equipment and their technical specifications.



53. **Security incident** shall mean an event, action or omission which causes or may cause unauthorized access or allow illegal access to the information system or electronic communications network, disrupt or change, including management take over, the operation of information system or electronic communications network, destroy, damage, delete or change electronic data, deny or restrict access to the electronic data as well as enable unauthorized persons to appropriate or otherwise use of non-public electronic data.

54. **Transmission provider** shall mean an undertaking, except for broadcasters and/or re-broadcasters possessing a licence issued by the Radio and Television Commission of Lithuania granting the right to establish and operate their own electronic communications networks, which transmits to the public radio and/or television programme signals by an electronic communications network and which has the right to use radio frequencies (channels) necessary for such transmission and intended for the broadcasting (re-broadcasting) of radio and/or television programmes.

55. **Call** shall mean a connection established by means of a public telephone service allowing two-way communication.

56. **Special rights** shall mean the rights granted by the State to a limited number of undertakings whereby, within a given geographical area:

1) two or more undertakings are authorised to provide services or undertake an activity, or the number of such undertakings is limited to two or more, otherwise than according to objective, proportional and non-discriminatory criteria;

2) undertakings are granted, otherwise than according to objective, proportional and non-discriminatory criteria, legal or administrative privileges which substantially may affect the ability of any other undertaking to provide the same services or to undertake the same electronic communications activity and/or other activities in the same geographical area on substantially equivalent conditions.

57. **Traffic data** shall mean any data processed for the purpose of the conveyance of a communication via an electronic communications network and/or for the billing thereof.

58. **Reference offer** shall mean the conditions made public by an operator bound by the procedure and conditions set out in this Law, whereby he makes a commitment to provide access, including network interconnection, to any undertaking requesting it.

59. **Associated services** shall mean services associated with electronic communications network and/or electronic communications service which enable the provision of electronic communications services via this network and/or service and/or

facilitate the provision thereof or have the potential to do so, if used, and which include, *inter alia*, telephone number translation or systems of equivalent functionality, conditional access systems and electronic program guides, as well as other services, including the identification, location and presence services.

60. **Associated facilities** shall mean associated services, electronic communications infrastructure, other facilities associated with electronic communications network and/or an electronic communications service or associated elements, which enable provision of electronic communications services via this network and/or service and/or facilitate the provision thereof, or have the potential to do so, if used.

61. **Application program interface** shall mean the software interfaces of applications, made available by broadcasters (re-broadcasters) or service providers, and the resources in the equipment of enhanced digital television for digital television and radio services.

62. **Public pay telephone** shall mean a telephone available to the general public, for the use of which the means of payment may include coins and/or other payment instruments.

63. **Telecommunications terminal equipment** shall mean equipment, or relevant component thereof, enabling communication and intended to be connected directly or indirectly by any means whatsoever to public telecommunications networks (i.e. networks used wholly or partly for the provision of public telecommunications services).

64. **Telecommunications service** shall mean a service which consists wholly or mainly of the conveyance of signals via electronic communications networks, except for the transmission of television and/or radio programmes by networks used for broadcasting (re-broadcasting).

65. **Network termination point** shall mean the physical point at which a subscriber is provided with an access to a public communications network. The network termination point in the networks involving switching or routing shall be identified by a specific network address, which may be associated with the subscriber's telephone number or name.

66. **Interconnection** shall mean the physical and logical linking of public communications networks used by the same or a different undertaking in order to allow the users of one undertaking to communicate with users of the same and/or another undertaking, or to access services provided by the other undertaking. Interconnection is a specific type of access.

67. **Undertaking** shall mean a person or a group of persons linked by virtue of control or dependency who are engaged in an electronic communications activity in the Republic of Lithuania or whose actions have an impact on or intentions, if realised, might have an impact on economic activity in the Republic of Lithuania.

68. **Universal services** shall mean the minimum set of services of specified quality which must be available to all end users requesting these services regardless of their geographical location and at an affordable price.

69. **Consumer** shall mean a natural person who uses or requests a public electronic communications services for purposes which are outside his or her trade, business or profession, i.e. for meeting personal, family or household needs.

70. **Effective competition** shall mean a situation in a relevant market where no undertaking has a significant power on that relevant market.

71. **Vertically integrated undertaking** shall mean an undertaking engaged in two or more types of activity involved in the same value chain.

72. **Public fixed communications network** shall mean a public communications network with fixed termination points.

73. **Public mobile communications network** shall mean a public communications network with non-fixed termination points.

74. **Public communications network** shall mean an electronic communications network used wholly or mainly for providing public electronic communications services, including an electronic communications network which can transmit information from one network termination point to the other.

75. **Public electronic communications services** shall mean public electronic communications services.

76. **Public fixed telephone services** shall mean public telephone services provided over the public fixed communications network.

77. **Public mobile telephone services** shall mean public telephone services provided on the public mobile communications network.

78. **Public telephone services** shall mean public services for sending and receiving, directly or indirectly, national or national and international calls using the appropriate telephone number or numbers indicated in the National Telephone Numbering Plan.

79. **Local loop** shall mean the physical circuit connecting the network termination point to the main distribution frame or equivalent facility in the public fixed communications network.

80. **Beneficiary of access to the local loop** shall mean an undertaking authorised to provide electronic communications services, which may be or has been granted access to the local loop.

81. **Location data** shall mean data processed in an electronic communications network or by electronic communications services, indicating the geographic position of the terminal equipment of an actual user of electronic communications services.

82. **Location label (Cell ID)** shall mean identifier of the place where the call is originated or terminated in the public mobile communications network.

83. **Full unbundled access to the local loop** shall mean the provision to a beneficiary of access to the local loop or local sub-loop of the operator bound by the procedure and conditions set out in this Law, authorising the use of the full frequency spectrum of the physical circuit.

84. **Harmful interference** shall mean radio interference which endangers the functioning of the radio navigation services or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts radio communication operating in accordance with the applicable regulations.

85. Any definitions used in Chapter Nine of this Law that are not defined in this Law shall be interpreted within the meaning of the Law on Legal Protection of Personal Data.

## **CHAPTER TWO**

### **SYSTEM FOR THE FORMULATION AND REGULATION OF POLICY FOR ELECTRONIC COMMUNICATIONS ACTIVITIES**

#### **Article 4. Institutions responsible for the formulation and regulation of policy for electronic communications activities**

1. The Government and the institution authorised by the Government shall formulate the policy for electronic communications activities in the Republic of Lithuania.

2. Electronic communications activities in the Republic of Lithuania shall be regulated by the Communications Regulatory Authority and other state institutions of the Republic of Lithuania within the scope of competence defined by this Law.

3. Electronic communications used for the purpose of national defence, national security, maintenance of public order, guarding of state borders, maritime security, maritime search and rescue operations, oil spillage response, civil aviation and rail traffic safety, and ensuring stable and reliable operations in the energy system shall be regulated by relevant state institutions within the scope of their competence. Work of these institutions shall be coordinated by the institution authorised by the Government.

4. The development, production, import, export, placing on the market, acquisition, and use of encoding facilities for the information transmitted by electronic communications networks and/or delivered using electronic communications services shall be regulated by the Government on the basis of its resolutions. Compliance with such resolutions shall be supervised by the institution authorised by the Government.

#### **Article 5. Government and its authorized institution's powers in the field of electronic communications**

1. In formulating an electronic communications policy the Government shall:

- 1) establish universal services price ceiling and approve the rules for compensation of losses of universal services provision;
- 2) approve the planning documents for the development of electronic communications and radio frequency assignment for radio and television programs broadcast and transmission in the Republic of Lithuania.

2. In formulating and implementing electronic communications policy the institution authorised by the Government shall:

- 1) coordinate the development of state investment projects in the field of electronic communications, make economic, financial and technical assessments of such projects and exercise control over their implementation;
- 2) maintain cooperation with foreign institutions responsible for the formulation of electronic communications policy and represent, within the scope of its competence, the Republic of Lithuania in international organisations, European Union institutions, committees and groups the activities of which are related to electronic communications (telecommunications), radio equipment and terminal equipment, electromagnetic compatibility and/or radio spectrum management;
- 3) collect information relevant to the formulation and implementation of policy on electronic communications activities;

4) in cases of force majeure, emergencies or other extraordinary circumstances as well as for the purpose of preparing for universal mobilisation or national defence or ensuring national security and public order, give, in accordance with the procedure established by laws and other legal acts, mandatory instructions, tasks and assignments to undertakings providing electronic communications networks and/or services as well as to owners or users of equipment and devices;

5) designate certification and inspection bodies as well as testing laboratories responsible for assessing the conformity of equipment and devices in accordance with the procedure established by the Government;

6) take measures to ensure that natural persons are guaranteed access to the service provided by number 116000 of harmonized services of social value.

### **Article 6. The Communications Regulatory Authority**

1. The Communications Regulatory Authority shall be an independent state institution responsible for the regulation of electronic communications activities and for the supervision of compliance with and implementation of the provisions of this Law, except where such supervision and implementation fall within the scope of competence of other state institutions. The Communications Regulatory Authority shall operate independently in accordance with this and other laws as well as its own regulations. The regulations of the Communications Regulatory Authority shall be approved by the Government. The Communications Regulatory Authority shall be a national regulatory authority of the Republic of Lithuania within the meaning of the European Union legal acts regulating social relations pertaining to the subject of this Law.

2. The Communications Regulatory Authority shall be a public legal entity having its bank account and a seal with the Lithuanian state emblem and its name inscribed therein.

3. The Communications Regulatory Authority shall be financed from the state budget and a separate budget of its own, comprised of revenues from services provided and work performed. The objects and scope of such services and work as well as the procedure of payment shall be established by the Communications Regulatory Authority on the basis of their costs.

4. Each year, by 1 May, the Communications Regulatory Authority shall submit to the Seimas and the Government and publish an annual report of the Communications Regulatory Authority on its operating and financial activities for the previous calendar

year, indicating the charges collected and the costs incurred by the Communications Regulatory Authority. After having published the annual report identifying such costs and the amount of charges collected, the Communications Regulatory Authority shall make calculation of the difference between the costs incurred and the total sum of charges collected and approve appropriate adjustments to be made.

5. The Communications Regulatory Authority shall publish any information necessary for the development of an open and competitive market. The rules of publication of such information, including its scope, shall be established by the Communications Regulatory Authority, taking account of the legal norms regulating the protection of confidential information, including state, business or commercial secrets or private information about a natural person.

6. The Communications Regulatory Authority shall publish information related to the implementation of this Law within the scope and subject to the procedure and conditions set forth by the Authority itself.

7. The legal acts adopted by the Communications Regulatory Authority or the non-adoption thereof may be appealed against in court within the established time limit and in accordance with the procedure established by this and other laws. The filing of an appeal to court concerning a legal act adopted by the Communications Regulatory Authority shall not suspend the legal act, except for the cases where the court decides otherwise in accordance with procedure established by the law.

#### **Article 7. Management of the Communications Regulatory Authority**

1. The Communications Regulatory Authority shall be headed by a director. The director of the Communications Regulatory Authority shall be appointed for a period of five years by the President of the Republic on a proposal from the Prime Minister.

2. The remuneration of the director of the Communications Regulatory Authority (basic salary, bonuses for the length of service to the State of Lithuania, and single additional pay) shall be set out in the Law on Remuneration of State Politicians and State Officials.

3. The Council of the Communications Regulatory Authority (hereinafter: the 'Council') shall be a collegial body of the Communications Regulatory Authority. The Council shall comprise seven members and shall be chaired by the director of the Communications Regulatory Authority. The Council shall be appointed for a period of five years by the President of the Republic on a proposal from the Prime Minister.

Members of the Council shall elect a vice-chair of the Council. Members of the Council shall not be remunerated. The Council's working procedure, the rules for holding meetings and adopting resolutions shall be established by its rules of procedure approved by the Council. The technical servicing of the Council shall be provided by the Communications Regulatory Authority from its funds.

4. The director of the Communications Regulatory Authority shall issue orders and the Council shall adopt resolutions.

5. The director of the Communications Regulatory Authority shall address any issues falling within the scope of competence of the Communications Regulatory Authority. In cases provided for in this Law, the director of the Communications Regulatory Authority must coordinate his decisions with the Council.

6. The director of the Communications Regulatory Authority shall:

1) represent and/or authorise another person to represent the Communications Regulatory Authority in the Republic of Lithuania and abroad;

2) approve, after coordination with the Council, the structure and the regulations of structural divisions of the Communications Regulatory Authority;

3) approve the list of staff positions and job descriptions for the Communications Regulatory Authority;

4) in accordance with the procedure established by the law, hire and dismiss civil servants and employees of the Communications Regulatory Authority working under employment contracts; give incentives to and impose penalties on them;

5) approve a strategic plan of activity of the Communications Regulatory Authority;

6) sign resolutions adopted by the Council;

7) issue orders, approve legal acts by orders and exercise control over their implementation;

8) ensure that the Communications Regulatory Authority should act in conformity with the laws and other legal acts;

9) every year, by 31 March, present to the Council, and by 1 May – to the Seimas and the Government, and publish a written report on the activities of the Communications Regulatory Authority;

10) exercise other powers conferred upon him by laws and other legal acts of the Republic of Lithuania.



7. The director of the Communications Regulatory Authority may have deputies. Such deputies are appointed by the director of the Communications Regulatory Authority in accordance with the procedure established by the Law on Civil Service. In the case of absence of the director, he shall be temporarily substituted by one of the deputies appointed by him.

8. The council shall:

- 1) consider radio communication development plans;
- 2) coordinate the rates of charges for the services provided and the work performed by the Communications Regulatory Authority and the procedure of payment thereof;
- 3) coordinate the annual estimate for the budget program of the Communications Regulatory Authority;
- 4) coordinate the rules for market analysis;
- 5) coordinate the legal acts referred to in Articles 29 and 34 of this Law;
- 6) coordinate the rules for the publication of information necessary for the development of an open and competitive market, including the scope of such information;
- 7) coordinate the procedure, scope and conditions of publication by the Communications Regulatory Authority of information related to the implementation of this Law;
- 8) coordinate the rules of consultation provided for in Article 11(4) of this Law;
- 9) coordinate the rules for the settlement of disputes between undertakings as well as the rules for mediation and/or conciliation procedures;
- 10) coordinate the rules for the settlement of disputes between end users and providers of electronic communications services;
- 11) approve the rules of procedure of the Council and coordinate the internal rules of procedure of the Communications Regulatory Authority;
- 12) hear a report of the director of the Communications Regulatory Authority on the activities of the Communications Regulatory Authority;
- 13) consider draft strategic plans of activity of the Communications Regulatory Authority;
- 14) consider and submit proposals to the director of the Communications Regulatory Authority relating to the imposition of economic sanctions on undertakings that fail to comply with the requirements of this Law;

15) consider the draft legislation drawn up by the Communications Regulatory Authority of and submit to the Communications Regulatory Authority the proposals for their adoption, amendment or supplement;

16) analyse the activities of the Communications Regulatory Authority;

17) approve other legal acts in the cases provided for by this Law.

9. The President of the Republic, on a proposal from the Prime Minister, shall dismiss the director of the Communications Regulatory Authority and/or members of the Council in accordance with the procedure established by the law in the following cases:

1) at the request of the director and/or Council member;

2) on expiry of the term of office;

3) for health reasons;

4) on reaching retirement age;

5) on election to another position or on transfer to another job with their consent;

6) upon the entry into force of a judgment of conviction;

7) if he or she discredits the status of the director and/or member of Council;

8) if member of the Council discontinues to hold his position in an institution where he performed such duties at the time of his appointment.

10. The working procedure of the administration of the Communications Regulatory Authority shall be established in the internal rules procedure of the Communications Regulatory Authority approved by the director thereof.

### **Article 8. Objective and tasks of the Communications Regulatory Authority**

1. The Communications Regulatory Authority shall have the objective of developing effective competition in the field of electronic communications, efficient use of electronic communications resources and ensured protection of the rights of consumers of electronic communications services.

2. The Communications Regulatory Authority shall have the following tasks:

1) to ensure the conditions necessary for effective competition in the markets of electronic communications, first of all the transmission of information content by electronic communications networks, and to ensure that there is no discrimination between undertakings providing electronic communications networks and/or electronic communications services, as well as to promote the expansion and development of electronic communications infrastructure;

2) to ensure protection of the rights and legitimate interests of the users of electronic communications services, including the disabled, elderly and users of special social needs (natural persons who, by reason of his age, disability, social problems, partially or completely lack, have not acquired or have lost the abilities or possibilities to independently care for his private life and to participate in society), in particular ensure simple and affordable dispute settlement procedures and promote the transparency of conditions for the provision of electronic communications services and their tariffs, and ensure, within the scope of its competence, the possibility to use universal service, and to end-users access the selected information and disseminate it according to the procedure laid down in legal acts, as well as access the selected software and services;

3) to promote effective long-term investments and innovation implementation, as well as the development of electronic communications;

4) to ensure an effective use of electronic communications resources and sufficient national telephone numbering resources necessary for provision of public electronic communications services so that numbering plans and procedures are applied in a manner that gives equal treatment to all providers of public electronic communications services, in particular ensure that undertakings allocated a range of numbers do not discriminate against other providers of electronic communications services as regards the number sequences used to give access to their services;

5) to ensure, within the scope of its competence, that the equipment and devices used in the Republic of Lithuania are in conformity with the mandatory requirements in force in the Republic of Lithuania and ensure the electromagnetic compatibility of the equipment and devices;

6) to promote, within the scope of its competence, the development of the European Union's internal market and a harmonised regulation of electronic communications in the European Union;

7) to cooperate with competent authorities including the State Data Protection Inspectorate to safeguard the inviolability of an individual's private life with regard to personal data processing;

8) to ensure that the operators and providers of electronic communications services fulfil their obligations that may be imposed on them in the interest of national defence, national security and maintenance of public order as well as in cases of extraordinary circumstances;

9) ensure that providers of public electronic communications services implement appropriate technical and organisational measures to safeguard security and integrity of their public communications networks and/or public electronic communications services.

### **Article 9. Tasks of the Communications Regulatory Authority**

The Communications Regulatory Authority shall:

1) exercise control over and implementation of the provisions of this Law and the legal acts implementing it, except where such control and implementation fall within the scope of competence of other state institutions as defined by this Law;

2) prepare and approve requirements for equipment and devices and the conditions of their use; in the cases provided for in legal acts, issue authorisations to use equipment and devices, import and use radio monitoring and radio communication suppression equipment;

3) prepare and approve the National Radio Frequency Allocation Table, together with the Lithuanian Radio and Television Commission prepare and approve the plan for assigning radio frequencies to broadcast and transmit radio and television programmes;

4) cooperate with foreign state regulatory authorities governing electronic communications activities; participate, within the scope of its competence, in the activities of international organisations and EU institutions, committees and groups the activities of which are related to electronic communications (telecommunications), radio communication equipment and terminal equipment, electromagnetic compatibility and/or radio spectrum management, security of public communications networks and/or public electronic communications services as well as the activities of the Body of European Regulators for Electronic Communications appointing, where appropriate, experts to participate in relevant committees and groups; pursue international coordination of radio frequencies (channels) and orbital resources and international protection of radio stations (radio frequencies) and orbital resources. The Communications Regulatory Authority may undertake obligations on behalf of the Republic of Lithuania only subject to the powers conferred upon it in accordance with the procedure established by legal acts, except for the cases where an international treaty concluded by the Republic of Lithuania or the European Union law provides for the delegation of functions falling within the scope of competence of the Communications Regulatory Authority to a telecommunications/electronic communications administration of the Republic of Lithuania or a national telecommunications (electronic communications) regulatory

authority. In this case, the Communications Regulatory Authority shall perform relevant functions and undertake related obligations in conformity with the provisions of a given treaty or the European Union law and need not receive any additional powers or carry out other procedures subject to the relevant provisions of the Law on Treaties;

5) prepare and submit to the Government or its authorized institution proposals regarding electronic communications activity policy;

6) prepare and submit to the Government proposals for universal service price ceiling, prepare and submit to the Government for approval the rules for compensation of losses of universal services;

7) establish rules for provision of universal services, obligations for undertaking not appointed to provide universal services so as to properly provide the universal services;

8) collect and store, in accordance with the procedure established by the Government, information about the nature of technical data on electronic communications recorded and stored by undertakings providing electronic communications networks and/or services;

9) perform activities of the national incident investigation unit of electronic communications networks and information security;

10) be responsible for the control of implementation of provisions of directly applicable European Union legal acts regulating the subject of this Law, except where such implementation falls within the scope of competence of the State Data Protection Inspectorate subject to Article 12(5) of this Law;

11) on the basis of this Law and other legal acts, adopt legal acts and perform other functions established by this and other laws, regulations of the Communications Regulatory Authority and other legal acts.

#### **Article 10. Rights of the Communications Regulatory Authority**

The Communications Regulatory Authority shall have the following rights:

1) to assess the conformity of equipment and devices, radio equipment and terminal equipment with mandatory requirements and/or standards;

2) to make measurements and perform other actions aimed at assessing whether the technical parameters of equipment and devices, radio equipment and terminal equipment conform to mandatory requirements;

3) to set up advisory commissions and approve rules of procedure for such commissions;

4) to organise meetings, conferences and other events;

5) to conclude agreements, assume obligations, enjoy other civil rights and duties, provided that this is not in contradiction with the laws of the Republic of Lithuania;

6) (repealed as of 1 August 2011);

7) (repealed as of 1 January 2014);

8) to take feasible, transparent, proportionate and non-discriminatory actions and/or measures in order to implement the provisions of this Law and its secondary legislation;

9) to enjoy the rights established in this and other legal acts.

#### **Article 11. Public consultation**

1. The Communications Regulatory Authority, when adopting legal acts on the basis of this Law or its secondary legislation, establishing or changing the conditions for the use of radio frequencies in accordance with Article 58(2) and Article 59 of this Law, which are expected to have a significant impact on the relevant market, except for the cases referred to in Article 16(18) of this Law and except for the legal acts whereby disputes are settled, shall publish drafts of such legal acts in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, granting interested persons a reasonable period of time to express their views.

2. The Communications Regulatory Authority shall, subject to the cases, procedure and conditions set forth by it, publish drafts of decisions of the Communications Regulatory Authority concerning issues related to any rights of the end users and consumers with respect to public electronic communications services, in particular where decisions on such issues have a significant impact on the market, granting the end users and consumers (in particular disabled users), producers, and providers of electronic communications network and/or services a reasonable period of time to express their views.

3. The Communications Regulatory Authority shall consult interested persons when making decisions on mandatory application of standards adopted by international, European Union and other regional standards organisations as well as national standards.

4. The Communications Regulatory Authority shall establish consultation rules defining the cases, procedures and conditions of consultation. The information related to

any consultations under way shall be placed on the website of the Communications Regulatory Authority. The Communications Regulatory Authority shall publish the results of consultations, except for the information which constitutes state, official or commercial secrets or which is related to the private life of a natural person.

#### **Article 12. Cooperation of institutions of the Republic of Lithuania**

1. The Competition Council shall, in so far as it is related to electronic communications activities:

1) exchange with the Communications Regulatory Authority any information required for the performance of functions of the Competition Council and the Communications Regulatory Authority, including confidential information, ensuring the protection of the information received;

2) provide consultation to the Communications Regulatory Authority on matters concerning the performance of its functions related to the supervision of competition in the field of electronic communications;

3) cooperate with and consult the Communications Regulatory Authority when exercising supervision of competition in the field of electronic communications in accordance with the Law on Competition.

2. The State Consumer Rights Protection Authority shall:

1) coordinate the activities of the Communications Regulatory Authority in the field of consumer rights protection with respect to their use of electronic communications services;

2) provide consultations to the Communications Regulatory Authority on matters concerning the performance of its functions related to the protection of consumer rights with respect to their use of electronic communications services;

3) within the scope of competence established by the Law on Product Safety, exercise supervision of product safety, including the safety of products related to electronic communications networks and/or services and radio equipment and terminal equipment;

4) cooperate with and consult the Communications Regulatory Authority in the field of consumer rights protection with respect to the use of electronic communications services.

3. The State Consumer Rights Protection Authority shall, within the scope of competence established by the Law on Consumer Protection and Law on Product Safety

and the powers conferred upon it by the Government, protect rights of consumers of electronic communications and shall exercise supervision of product safety, including the safety of products related to electronic communications networks and/or services and radio equipment and terminal equipment.

4. The Radio and Television Commission of Lithuania shall:

1) when taking decisions related to the licensing of broadcasting/re-broadcasting activities, consult the Communications Regulatory Authority on matters concerning electronic communications;

2) submit applications to the Communications Regulatory Authority concerning the coordination of radio frequencies (channels) assigned to broadcast and/or re-broadcast terrestrial radio and television programmes.

5. The State Data Protection Inspectorate shall:

1) supervise the implementation of provisions of Chapter Nine of this Law, except for Article 61(5), Article 64(7) and Article 68(2); examine, in accordance with the procedure established by the Law on Legal Protection of Personal Data, complaints regarding the processing of data and the protection of privacy and perform functions established by Article 77(2) of this Law and other functions established by the laws;

2) cooperate with the Communications Regulatory Authority in the field of protection of personal data and privacy;

3) be responsible for the control of the implementation of the provisions of directly applicable European Union legal acts regulating the subject of Chapter Nine of this Law, except for the provisions of Article 61(5), Article 64(7) and Article 68(2);

4) implement the provisions of Regulation (EC) No. 2006/2004, so far as it related to the subject of Article 69 of this Law;

5) implement Regulation (EU) No. 611/2013;

6) follow the provisions on cooperation set by the European Parliament and Council Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws in relation to the subject of Article 69 of this Law.

6. The Customs Department shall cooperate, within the scope of its competence, with the Communications Regulatory Authority in the performance of its functions related to the placement on the market of radio equipment, terminal equipment and equipment/devices, and exchange relevant information.



7. The Lithuanian national standards institution shall cooperate with an institution authorised by the Government, responsible for the formulation of policy of electronic communications activities, and with the Communications Regulatory Authority when both of these institutions participate, in accordance with the procedure established by the Law on Standardisation, in the process of standardisation related to the provision of electronic communications networks/services, associated facilities and services, including the broadcasting of radio and/or television programmes, also related to technical interfaces and/or the functioning of networks, the interoperability of terminal equipment, including radio and television programme reception equipment, and shall exchange information concerning standardisation.

8. To ensure electronic communications needs, national security institutions shall cooperate within the scope of their competence with the Communications Regulatory Authority.

9. When setting the hygiene norms related to electromagnetic radiation norms, the Ministry of Health shall consult the Communications Regulatory Authority. The Ministry of Health shall provide information on the hygiene norms related to electromagnetic radiation norms to the Communications Regulatory Authority. National health centre under the Ministry of Health, when performing its functions related to the supervision of electromagnetic radiation norms, shall consult the Communications Regulatory Authority and shall exchange relevant information with it.

10. The Communications Regulatory Authority and the Department of Statistics shall on request provide other state and/or municipal institutions with the available information required to perform their functions to the extent that it is necessary for the performance of such functions. Having received confidential information, state and/or municipal institutions must ensure the proper protection thereof.

11. The Communications Regulatory Authority shall cooperate with the Second Investigation Department under the Ministry of National Defence within the scope of competence defined by the legal acts regulating the activity of these institutions.

12. The procedure and conditions of cooperation between the institutions of the Republic of Lithuania, including conditions designed for ensuring proper performance of functions by each of the institutions concerned, the settlement of disputes relating to the collision of competences, and the formation of uniform practices, may be regulated by agreements between such institutions. Such agreements shall be published on the websites of the institutions concerned.

**Article 13. Cooperation with the European Union institutions, the Body of European Regulators for Electronic Communications and the European Union Member States**

1. State institutions shall cooperate with the European Union institutions, the Body of European Regulators for Electronic Communications and the European Union Member States as well as their institutions in conformity with European Union legal acts and mutual agreements. The documents drawn up, issued or approved by European Union institutions, the Body of European Regulators for Electronic Communications or the European Union Member States as well as their copies and translations shall not be subject to any authentication procedures.

2. The Communications Regulatory Authority shall submit information to the European Commission, the Body of European Regulators for Electronic Communications and the national regulatory authorities of the European Union Member States, upon a reasoned request by these institutions. Should the Communications Regulatory Authority provide the European Commission with information, or part of information, which was received earlier from undertakings at the request of the Communications Regulatory Authority, the Communications Regulatory Authority shall inform the relevant undertakings that such information has been submitted.

3. The Communications Regulatory Authority shall provide the European Commission with information about the implementation of European Union legal acts regulating the subject of this Law in the Republic of Lithuania.

4. Where European Union legal provisions relating to the subject of this Law are applied to EEA states which are not European Union Member States, the European Union shall be also regarded, for the purpose of this Law, as the European Economic Area.

**CHAPTER THREE**  
**REGULATORY FRAMEWORK FOR ELECTRONIC COMMUNICATIONS**  
**ACTIVITIES**

**Article 14. Supervision of competition in the field of electronic communications**

1. The Communications Regulatory Authority shall seek to create conditions for effective competition and its development in the field of electronic communications as well as conditions to prevent the abuse of market power by undertakings.

2. The Competition Council shall exercise supervision of competition in the field of electronic communications in accordance with the Law on Competition.

#### **Article 15. Significant market power on a relevant market**

1. An undertaking shall be considered to have significant market power if, either individually or jointly with others, it enjoys a position equivalent to dominance, i.e. a position of economic strength affording it a power to behave to an appreciable extent independently of competitors, customers and ultimately consumers.

2. Where an undertaking has significant market power on the relevant market, it may also be considered to have significant market power on a closely related market, if the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the undertaking.

3. An undertaking shall be identified as having significant market power where this has been determined by a decision of the Communications Regulatory Authority based on market analysis, and it shall be deemed as such until the Communications Regulatory Authority determines by its decision based on another market analysis that the undertaking does not have significant market power.

#### **Article 16. Market analysis**

1. Market analysis shall be conducted by the Communications Regulatory Authority. The objective of a market analysis conducted by the Communications Regulatory Authority shall be to ensure effective competition in the field of electronic communications and prevent the abuse of market power by undertakings with significant market power. The Communications regulatory Authority shall lay down the rules on market analysis.

2. The market analysis procedure shall include the following stages:

1) definition of a relevant market (product/service and geographic), the characteristics of which may justify the imposition of obligations referred to in Article 17 of this Law;

2) analysis whether a relevant market is effectively competitive and in the case it is not effectively competitive, identification of undertakings with significant market power on that market;

3) imposition, amendment and/or withdrawal of obligations referred to in Article 17 of this Law with respect to undertakings with significant market power.

3. The Communications Regulatory Authority shall carry out a market analysis after the European Commission adopts a recommendation defining relevant product and service markets or a decision defining the European Union market or in the event of amendment of these legal acts.

4. The Communications Regulatory Authority shall also have the right to conduct a market analysis:

- 1) at the request of interested undertakings;
- 2) at the request of state or municipal institutions;
- 3) at its own initiative.

5. The market analysis shall be initiated by a decision of the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to complete individual stages of the market analysis procedure where it reasonably and justly considers that the completion of other stages is not expedient.

6. In investigating markets, the Communications Regulatory Authority shall rely on legal acts of the Republic of Lithuania, European Union legislation and take into account the European Commission guidelines and recommendations, as well as the opinions and common positions adopted by the Body of European Regulators for Electronic Communications.

7. When conducting a market analysis, the Communications Regulatory Authority shall have the right to consult the Competition Council. The Communications Regulatory Authority must obtain the Competition Council's opinion on the definition of a relevant market if the market definition differs from the recommendation of the European Commission referred to in paragraph 3 of this Article. In all cases, the final decision shall be taken by the Communications Regulatory Authority.

8. Where a market analysis is conducted after the adoption by the European Commission of a decision defining the European Union market, the Communications Regulatory Authority shall conduct a market analysis together with the national regulatory authorities of the relevant European Union Member States in accordance with the

procedure and conditions set out in the European Union legal acts and mutual agreements with the national regulatory authorities of other European Union Member States.

9. The Communications Regulatory Authority shall perform the market analysis of the relevant market at least once every three years after the adoption of the previous final decision regarding results of this market analysis, if the relevant market was previously analysed, or at least once every two years, after the European Commission changes their recommendation on the relevant product and service markets, if the market has not been analysed. The Communications Regulatory Authority, in coordination with the European Commission, shall have the right to extend the three-year term referred to in this paragraph, but no more than by three additional years.

10. In case the Communications Regulatory Authority does not finish the market analysis in accordance with the terms referred to in paragraph 9 of this Article, it has the right to apply to the Body of European Regulators for Electronic Communications with a request for assistance in performing the relevant market analysis and determining the obligations for undertakings having significant market power. Having received the assistance, the Communications Regulatory Authority shall present their decision to the interested parties and the European Commission within six months in accordance with the procedure laid down in Article 11(1) and paragraph 12 of this Article of this Law.

11. The Communications Regulatory Authority shall complete the market analysis procedure within four months after the decision to initiate a market analysis, excluding time for consultations on market analysis referred to in Article 11(1) and paragraphs 12 to 16 of this Article of this Law. By a reasoned decision of the director of the Communications Regulatory Authority, this period may be extended, but not more than three times and by not more than three months each time. The Communications Regulatory Authority shall seek to complete the market analysis within the shortest period of time possible. The market analysis shall be completed by a decision of the director of the Communications Regulatory Authority concerning the results of market analysis. The decision shall indicate the results of every completed stage of the market analysis.

12. The Communications Regulatory Authority, prior to adoption of a decision defining a relevant product or service market, identifying or not identifying undertakings with significant market power on the relevant market or imposing, not imposing or withdrawing all or several obligations on these undertakings referred to in Article 17 of this Law where such a decision would affect trade between European Union Member States, shall, at the end of public consultations period set by the Communications

Regulatory Authority pursuant to Article 11(1) of this Law, submit a draft of the aforementioned decision to the European Commission, the Body of European Regulators for Electronic Communications and national regulatory authorities of other European Union Member States. The European Commission, the Body of European Regulators for Electronic Communications and other national regulatory authorities of European Union Member States may submit their opinions within one month. After the European Commission adopts guidelines and/or recommendations establishing other public consultation procedure and time limits than those specified in this Article, the public consultation procedure and time limits applicable pursuant to the European Commission's guidelines and/or recommendations shall apply.

13. Should the draft decision referred to in Article 12 define a relevant market differently than it is defined in the recommendation of the European Commission referred to in paragraph 3 of this Article or identify or not identify undertakings with significant market power on the relevant market and should the European Commission notify the Communications Regulatory Authority about its opinion that such a draft decision would create a barrier to a single market or about its serious doubts as to its compatibility with the European Union law, the Communications Regulatory Authority may not adopt such a draft decision for a further two months. If the European Commission within this time limit notifies the Communications Regulatory Authority not to adopt such draft decision, the Communications Regulatory Authority must within a period of six months change the said draft decision or not adopt it. If the Communications Regulatory Authority, having regard to the European Commission notification, amends its draft decision, they shall, in accordance with Article 11(1) and paragraph 12 of this Article of this Law, submit a revised draft decision to the interested persons and the European Commission.

14. If the draft decision referred to in paragraph 12 of this Article is to establish, modify, and/or withdraw one or more obligations on undertakings referred to in Article 17 of this Law and the European Commission notifies the Communications Regulatory Authority that in their opinion such a decision would create barriers to a single market, or they seriously doubt whether the draft decision is in line with European Union law, the Communications Regulatory Authority may not adopt such draft decision for a further three months after such notification is issued by the European Commission. During this three-month period, the Communications Regulatory Authority, taking into consideration opinion of the interested persons and the need to ensure a consistent regulatory practice, shall work closely with the European Commission and the Body of European Regulators

for Electronic Communications, in order to set the most appropriate and effective obligation. After the end of a three-month period, the Communications Regulatory Authority shall, having regard to the instruction of the European Commission referred to in this paragraph and the opinion and proposals of the Body of European Regulators for Electronic Communications, amend, reject or leave unchanged their draft decision.

15. If the Communications Regulatory Authority amends its draft decision or leaves it unchanged, it may not adopt its final decision for another month after the end of a three-month period referred to in paragraph 14 of this Article. If the European Commission during a one-month period referred to in this paragraph adopts a recommendation prescribing the Communications Regulatory Authority to amend their draft decision or not to adopt it, and the Communications Regulatory Authority does not consider this in adopting their final decision, the Communications Regulatory Authority must submit to the European Commission a reasoned explanation.

16. The Communications Regulatory Authority shall adopt their final decision in the case specified in paragraph 14 of this Article within one month after the end of one month term referred to in paragraph 15 of this Article. This term does not include the period of consultations on market analysis, provided for in Article 11(1) of this Law.

17. When adopting their final decision, the Communications Regulatory Authority shall assess the opinions of the European Commission, the Body of European Regulators for Electronic Communications and the national regulatory authorities of the European Union Member States and may adopt a decision at their own discretion, except for the case referred to in paragraph 13 of this Article. The Communications Regulatory Authority shall submit their final decision to the institution authorised by the Government, the Body of European Regulators for Electronic Communications, and the European Commission.

18. In exceptional circumstances, when the Communications Regulatory Authority considers that there is an urgent need to act by way of derogation from the procedure set out in paragraphs 12 and 13 of this Article so as to safeguard competition and protect the interests of users, it may immediately adopt proportionate and provisional measures, i.e. define a relevant market, identify or not identify undertakings with significant market power on the relevant market and/or impose, not impose or withdraw one or more of the obligations referred to in Article 17 of this Law with respect to such undertakings. Such provisional measures may be imposed for a period no longer than nine months. In this case, the Communications Regulatory Authority must, without delay, communicate those measures, with full reasons, to the European Commission, the Body of European

Regulators for Electronic Communications, and the national regulatory authorities of other European Union Member States. The Communications Regulatory Authority may render such measures permanent or extend the time for which they are applicable in accordance with the procedure established in paragraphs 12 and 13 of this Article.

19. The Communications Regulatory Authority shall publish the list of relevant markets for which undertakings with significant market power have been identified and the list of undertakings with significant market power as well as the obligations imposed on them, including information on the measures provided for in paragraph 18 of this Article and any changes in such information, on their website and shall submit such lists to the European Commission.

20. When conducting a market analysis, and deciding whether an undertaking has significant market power and imposing obligations on undertakings with significant market power, the Communications Regulatory Authority shall take account of the relevant provisions of international treaties and/or agreements and shall ensure, within the scope of its competence, compliance with and implementation of such treaties and/or agreements in the Republic of Lithuania. When implementing and ensuring compliance with international treaties and/or agreements, the Communications Regulatory Authority shall have the right, after consulting the European Commission and *mutatis mutandis* subject to the procedure and conditions set out in paragraphs 10, 14 and -18 of this Article, to impose, amend or withdraw the obligations referred to in Article 17 of this Law with respect to undertakings other than those with significant market power on the relevant market.

#### **Article 17. Imposition of obligations on undertakings having significant market power on the relevant market**

1. The Communications Regulatory Authority shall impose the following obligations on undertakings having significant market power on the relevant market, taking account of their appropriateness in each specific case and setting the starting moment in time for the fulfilment of such obligations:

1) obligation of transparency in accordance with the provisions of Article 18 of this Law;

2) obligation of non-discrimination in accordance with the provisions of Article 19 of this Law;



3) obligation of accounting separation in accordance with the provisions of Article 20 of this Law;

4) obligation to provide access in accordance with the provisions of Articles 21 and 22 of this Law;

5) obligations of price control and cost accounting in accordance with the provisions of Article 23 of this Law;

6) obligation of functional separation in accordance with the provisions of Article 23<sup>1</sup> of this Law;

7) obligations concerning the provision of services to end users in accordance with the provisions of Article 32 of this Law.

2. In the cases referred to in Article 26 of this Law, undertakings having significant market power on the relevant market must fulfil the relevant obligations without a separate decision by the Communications Regulatory Authority. Undertakings must also, without a separate decision by the Communications Regulatory Authority, fulfil the additional obligation specified in paragraph 5 of Article 18 of this Law. The undertaking must fulfil the obligations referred to in the first sentence of this paragraph as of the moment of its identification as having significant market power on the relevant market and the obligation referred to in the second sentence – as of the moment that the undertaking must start fulfilling the main obligation. The Communications Regulatory Authority shall have the right to set another moment for the start of fulfilment of obligations, but not an earlier moment than those referred to in this paragraph.

3. The Communications Regulatory Authority shall have the right to impose specific detailed obligations without exceeding the obligations referred to in paragraphs 1 and 2 of this Article.

4. In exceptional circumstances (i.e. where the Communications Regulatory Authority, having regard to paragraph 6 of this Article and/or Article 16(20), determines that the obligations referred to in paragraphs 1, 2 and 3 of this Article would not be sufficient to achieve the objectives set forth in Article 16(1)), the Communications Regulatory Authority shall have the right to impose on operators with significant market power other obligations for access, including interconnection, than those set out in paragraphs 1, 2 and 3 of this Article, subject to a consent from the European Commission.

5. The Communications Regulatory Authority shall have the right to attach to those obligations conditions covering fairness, reasonableness and timeliness. The Communications Regulatory Authority shall have the right to specify the obligations

provided for in this Article and lay down the conditions of their fulfilment by approving, in the cases provided for in this Law, the rules, procedures and/or conditions mandatory for all undertakings that have to fulfil the relevant obligations as well as by imposing, in all cases, specific detailed obligations and/or conditions of their fulfilment on specific undertakings.

6. The obligations imposed on undertakings by the Communications Regulatory Authority must be reasonable, based on the nature of the problem identified, proportionate and justified in the light of the principles and objectives of the regulation of electronic communications activities.

7. Where it is established on the basis of a relevant market analysis that the market characteristics do not justify the imposition of obligations referred to in this Article and/or that there are no undertakings having significant market power in the said market, the Communications Regulatory Authority shall not impose, in accordance with the procedure and conditions set out in this Law, the obligations referred to in this Article and/or shall withdraw the obligations, if any, imposed on the undertakings having significant market power. When withdrawing obligations, the Communications Regulatory Authority may by a reasoned decision set the final date for their implementation which should not be later than 28 days from the publication of the information referred to in Article 16(19) of this Law on the website of the Communications Regulatory Authority.

8. After having conducted a repeated market analysis, the Communications Regulatory Authority may amend the imposed obligations by applying *mutatis mutandis* the provisions of this Article concerning the imposition of obligations.

### **Article 18. Obligation of transparency**

1. The Communications Regulatory Authority may require an operator having significant market power on the relevant market to make public the information specified by the Communications Regulatory Authority and relating to access, including interconnection and:

- 1) accounting information;
- 2) technical specifications;
- 3) network characteristics;
- 4) the provision of access and conditions of use, including access to services, and/or applications are legitimate restrictions;
- 5) prices of access and related services.

2. The Communications Regulatory Authority may require operators having significant market power on the relevant market to publish a reference offer to provide access, including interconnection. The offer must be sufficiently detailed to ensure that undertakings are not required to pay for facilities which are not necessary for the service requested, giving a description of the relevant offerings broken down into components according to market needs, and the associated terms and conditions including prices. The Communications Regulatory Authority shall have the right to request that the operator having significant market power change, within the time limit set by the Communications Regulatory Authority, the terms and conditions of a reference offer in order to give effect to obligations imposed under this Law on operators with significant market power.

3. The Communications Regulatory Authority may specify the precise information to be made available under paragraphs 1, 2 and 5 of this Article, the level of detail required, the manner of publication and other terms and conditions of publication.

4. The information referred to in paragraphs 1, 2 and 5 of this Article, including geographic network interconnection points, conditions of interconnection testing, electronic communications infrastructure sharing and payment terms, conditions for selecting the electronic communications service provider and tariffs, may not be considered a commercial secret.

5. The operator, obliged to provide wholesale access to physical infrastructure including full or shared access at a fixed location, must in accordance with the conditions of the Communications Regulatory Authority, publish a reference offer, including the content of the reference offer. Provisions of paragraphs 1 and 2 of this Article shall apply to such a reference offer.

### **Article 19. Obligation of non-discrimination**

1. The Communications Regulatory Authority may impose obligations of non-discrimination, in relation to access, on an operator having significant market power on the relevant market so that the operator does not discriminate against other undertakings and, in particular, applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services, and provides services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subunits or subsidiaries.

2. The Communications Regulatory Authority must impose the obligation defined in paragraph 1 above, where necessary, to ensure that vertically integrated undertakings

controlled by the State or municipalities, which provide electronic communications networks built subject to exclusive or special rights and which have significant market power, do not discriminate against other undertakings thus giving advantage to their own operations.

#### **Article 20. Obligation of accounting separation**

1. The Communications Regulatory Authority may impose obligations for accounting separation in relation to specified activity or activities related to access on an operator having significant market power on the relevant market.

2. The Communications Regulatory Authority shall establish the rules on accounting separation and the related requirements, including the auditing requirement.

#### **Article 21. Obligation to provide access**

1. The Communications Regulatory Authority may impose obligations on an operator having significant market power on the relevant market to satisfy reasonable requests by other undertakings for access to, and use of, specific network elements and associated facilities, including:

1) to provide access to specific network elements and/or other facilities of undertakings, including access to a network of passive elements, and/or unbundled access to the local loop, in order to allow provider of public fixed telephone service, in advance and on an individual basis, make his choice, and/or submit a proposal to provide the wholesale local loop for provision of public telephone services;

2) to negotiate in good faith with undertakings requesting access;

3) not to withdraw access to facilities already granted;

4) to provide specified services for resale;

5) to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or provision of virtual network services;

6) to provide co-location or other forms of sharing of electronic communications infrastructure;

7) to provide specific services needed to ensure the provision of service to users;

8) to provide access to operational support systems or other similar software systems necessary to ensure fair competition in the provision of services;

9) to interconnect networks or network facilities, including the possibility to interconnect networks at any network point where this is technically feasible;

10) to provide access to associated services, including the identity, location and presence services.

2. When adopting a decision on imposing or withdrawing the obligations referred to in paragraph 1 of this Article, the Communications Regulatory Authority shall take account of the principles and objectives of this Law and of the following factors:

1) technical and economic feasibility of using or installing competing technical facilities in accordance with market developments, taking into account nature and type of access, including interconnection, as well as the ability to access other facilities;

2) the feasibility of providing the access requested, in relation to the capacity (resources) available;

3) initial investments of the facility owner, taking into consideration investments made by public sector and investment risk;

4) the need to ensure long-term competition, including expansion of electronic communications infrastructure and cost-effectiveness of development;

5) intellectual property rights;

6) the provision of services covering more than one European Union Member State.

3. When imposing a specific obligation, the Communications Regulatory Authority shall have the right to set forth the conditions for providing access and/or technical specifications that are mandatory for access provider and/or user in order to ensure proper network operation.

## **Article 22. Access**

1. Undertakings that are legitimately engaged in an electronic communications activity shall have the right to negotiate access freely. Operators shall have a right and, when requested by another operator or a public electronic communications service provider seeking to provide public electronic communications services or to secure such provision, an obligation to negotiate network interconnection in order to ensure provision and interoperability of services.

2. The Communications Regulatory Authority shall encourage and where appropriate ensure, in accordance with the procedure established by this Law, adequate access and compatibility of services in order to promote efficiency, long-term competition,

effective investments and innovation implementation and give the maximum possible benefit to end users. With this aim in view the Communications Regulatory Authority shall have the right to impose, in accordance with the procedure established by this Law, obligations on undertakings with significant market power as well as on other undertakings, in particular:

1) to the extent that is necessary to ensure end-to-end connectivity, obligations on undertakings that control access to end users, including the obligation to interconnect their networks where this is not already the case;

2) to the extent that is necessary to ensure accessibility for end users to specific digital radio and television broadcasting services, obligations on operators to ensure access to application program interfaces and electronic programme guides on fair, reasonable and non-discriminatory terms.

3) to the extent it is necessary to ensure service consistency, the obligations on undertakings that control access to end-users.

3. Obligations to provide access imposed by the Communications Regulatory Authority and/or the related conditions imposed thereby shall be objective, transparent, proportionate and non-discriminatory and the relevant decisions shall be taken pursuant to the rules applied to the cases specified in Article 11(1) of this Law and, *mutatis mutandis*, the rules laid down in Article 16(12), (14) to (16) of this Law.

4. In the case referred to in paragraph 2 of this Article, an undertaking may refuse to provide, to unilaterally suspend or discontinue access only in the event that such actions are based on objective criteria, including technical non-feasibility or the necessity to ensure network integrity.

5. Undertakings shall ensure that any information acquired from other undertakings before, during or after negotiations for access, except for the information which may not be confidential subject to the procedure, cases and conditions set out in this Law, be used solely for the purpose for which it was supplied and respect the confidentiality of information transmitted or stored. Such information may not be passed on to any other party, in particular other subdivisions, subsidiaries or partners for whom such information could provide a competitive advantage. The Communications Regulatory Authority may adopt rules detailing the measures to secure such requirements.

6. When resolving a dispute between undertakings, the Communications Regulatory Authority shall have the right, in conformity with the principles established by this Law and in cases justified by the objectives thereof, to issue at its own initiative or in

accordance with the procedure established in Article 28 of this Law a decision on the granting of undertaking-binding access, including network interconnection, where the granting covers the imposition of obligations in respect of specific access as specified in paragraph 2 of this Article.

7. The Communications Regulatory Authority shall have the right to adopt rules for granting and providing access, including network interconnection.

### **Article 23. Price control and cost accounting obligations**

1. The Communications Regulatory Authority shall have the right to impose obligations on an operator having significant market power relating to cost recovery and price controls, including obligations to provide access at prices that are based on costs (taking into account a reasonable rate of return on investment) and obligations concerning cost accounting systems, for the provision of specific types of access, in situations where a market analysis indicates that a lack of effective competition (the presence of undertakings having significant power on the relevant market) means that the operator concerned might sustain prices at an excessively high level, or apply a price squeeze, to the detriment of end-users. In order to promote investments of the operators, including investment in expansion of electronic communications networks and development of technologies, when imposing obligations, the operator's right to receive a reasonable return on investments estimated after the assessment of the risk of new investments in expansion of electronic communications networks and development of technologies.

2. Established cost recovery mechanism and/or pricing methodology must promote efficiency and long-term competition and maximise consumer benefits. In this regard the Communications Regulatory Authority may take account of prices available in comparable competitive markets.

3. Where an operator has an obligation for cost orientation of prices, the burden of proof that prices are cost-oriented taking into account a reasonable rate of return on investment shall lie with the operator having an obligation for cost orientation of prices. The Communications Regulatory Authority may lay down cost accounting rules for the purpose of calculating the cost of efficient provision of services and/or networks. The Communications Regulatory Authority may require an operator who has an obligation for cost orientation of its prices to provide full justification for cost-oriented pricing; the Authority may set a reasonable mandatory time limit for the submission of such justification. Should the operator fail to provide justification for its cost-oriented pricing

within the established time limit, it shall be deemed that its prices are not cost-orientated. The Communications Regulatory Authority shall have the right to require that the data submitted by the operator be audited at the operator's expense. Until an operator who has an obligation for cost orientation of its prices provides full justification for its cost-oriented pricing, the Communications Regulatory Authority may temporarily set price caps taking into account the data about relevant costs obtained on the basis of indirect cost assessment methods, including the comparison of prices for relevant services, having regard to the best practice of European Union Member States, the practice of countries with a similar level of development and the practice of the Republic of Lithuania, and the assessment of the ratio between relevant wholesale and retail prices.

4. The Communications Regulatory Authority may require an operator who has an obligation regarding the cost control to provide evidence of relevance of its prices and set a reasonable mandatory time limit for the submission of such evidence. In case the operator fails, within the time limit set by the Communications Regulatory Authority, to provide relevance of prices, the prices shall be considered as irrelevant. The Communications Regulatory Authority shall have the right to require that the data submitted by the operator be audited at the operator's expense. The Communications Regulatory Authority shall have the right to request a change in the prices or establish price caps by comparing the prices of the services concerned, taking into account the best practice of the European Union Member States, practice of similarly developed states, and the practice of the Republic of Lithuania as well as assessing the wholesale and retail price ratio.

5. Should the Communications Regulatory Authority, in order to ensure a price control system, authorise the operator to implement the cost accounting system, the operator must, within the time limit and in accordance with the procedure and conditions set by the Communications Regulatory Authority, prepare a cost accounting system, make its description public, submit it to the Communications Regulatory Authority, and maintain compliance with it. The cost accounting system and the manner of its publication must be in compliance with the cost accounting rules laid down by the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to establish a cost accounting system, methodology and/or model to be used by an operator or operators having significant market power on the relevant market. Such accounting system, method, and/or model, the Communications Regulatory Authority is required to publish on its website. Compliance with cost accounting rules and other legal acts as well



as with the cost accounting system, methodology and/or model prepared by the operator and/or established by the Communications Regulatory Authority must be verified by an audit. The audit opinion must be published annually in accordance with the rules established by the Communications Regulatory Authority.

### **Article 23<sup>1</sup>. Obligation of functional separation**

1. Under exceptional circumstances (when the Communications Regulatory Authority identifies that the obligations imposed by the Article 18, 19, 20, 21, 22 and 23 are not sufficient to ensure effective competition and where important and persisting competition problems on the market relating to access provision occur), the Communications Regulatory Authority shall, with regard to Article 17(4) of this Law, have the right to oblige a vertically integrated undertaking to separate its relevant wholesale access services from the rest of the undertaking's activities, by transferring it to a separate legal entity.

2. An undertaking, which has the functional separation obligation, shall provide access to all undertakings, including subsidiaries of a vertically integrated undertaking referred to in paragraph 1 of this Article, on the same terms and conditions, including the price and quality of services, and using the same systems and processes.

3. The Communications Regulatory Authority shall notify the European Commission about their intention to establish a functional separation obligation stating:

1) the grounds on which imposition of the obligation referred to in paragraph 1 of this Article are based;

2) a grounded assessment that effective and long-term competition will not arise in the electronic communications infrastructure within a reasonable period of time or it will not be sufficiently effective;

3) the expected impact on the Communications Regulatory Authority, on the undertaking which is imposed the obligation referred to in paragraph 1 of this Article, particularly on the employees of the undertaking, and the entire electronic communications market, as well as incentives to invest in the electronic communications market in order to ensure social and territorial cohesion, impact on other interested persons, including the expected impact on competition and the likely consequences for consumers;

4) evaluation of the reasons underlying implementation of effectiveness of this obligation for elimination of competition problems for the provision of access in respective market.

4. In the decision, which is to impose the functional separation obligation, the Communications Regulatory Authority shall state:

- 1) the exact nature and level of functional separation;
- 2) assets to be separated and access to be provided;
- 3) the governance arrangements to ensure structural staff and promotion independence;
- 4) the rules ensuring compliance with the obligation;
- 5) the rules for ensuring business process transparency, particularly with regard to the persons concerned;
- 6) monitoring program of compliance with the obligation, including publication of the annual report.

5. The decision of the Communications Regulatory Authority to set, leave effective, amend or repeal obligations shall be made only after the analysis of wholesale market for provision of relevant access and in accordance with the rules applied to cases referred to in Article 11(1) of this Law, and, *mutatis mutandis*, the rules laid down in Article 16 of this Law.

6. The Communications Regulatory Authority shall have the right to impose on the undertaking, which has a functional separation obligation, the obligations provided for in Article 18, 19, 20, 21, 22 and 23 or other obligations which are legitimate, consistent with the nature of the identified problem, proportionate and justified by electronic communications regulatory principles and purposes and which are not provided for in Article 18, 19, 20, 21, 22 and 23 of this Law, if the European Commission allows it.

### **Article 23<sup>2</sup>. Voluntary separation of a vertically integrated undertaking**

1. With the intention to separate the management of all assets of the access to the network or a substantial part of the management of the undertaking from other activities of this undertaking or with the intention to transfer assets related to network access or a substantial part of the assets by the right of ownership to another undertaking, with which it is not linked by virtue of control or dependency, and thus render analogous access services to retail market public communications networks service providers and/or public electronic communications service providers, including its own retailers, the undertaking

that has a significant power on one or several relevant markets must notify the Communications Regulatory Authority thereof in accordance with the terms and conditions provided for in the rules of the Communications Regulatory Authority, in order they evaluate the impact of the expected transaction. The undertaking must also notify the Communications Regulatory Authority of any changes in the intentions of voluntary separation of and the final results of the voluntary separation according to the terms and conditions set in the rules of the Communications Regulatory Authority.

2. Having received the information provided for in paragraph 1 of this Article, the Communications Regulatory Authority shall impose, leave effective, amend or repeal obligations only after the analysis of the markets providing network access and in accordance with the rules applicable to cases referred to in Article 11(1) of this Law and, *mutatis mutandis*, the rules laid down in Article 16 of this Law and after the assessment of the impact of a voluntary separation of an undertaking having significant market power in one or several relevant markets on the obligations imposed on this undertaking.

3. The Communications Regulatory Authority shall have the right to impose on the undertaking, which has taken over all or a substantial part of the management and control of the access to network assets, the obligations set In Article 18, 19, 20, 21, 22 and 23 of this Law or other obligations which are legitimate, consistent with the nature of the problem identified, proportionate and justified by the electronic communications regulatory principles and purposes and which are provided for in Article 18, 19, 20, 21, 22 and 23 of this Law, if the European Commission allows it.

#### **Article 24. Digital television distribution**

Providers of electronic communications networks used for the distribution of digital television services shall ensure the possibility to distribute wide-screen digital television services and programmes. Operators that receive and redistribute wide-screen digital television services or programmes shall maintain that wide-screen format.

#### **Article 25. Conditional access services and associated facilities**

1. Undertakings controlling conditional access systems shall use only such systems of conditional access to digital radio and/or television services, irrespective of the means of transmission, that would have the necessary technical capability for cost-effective transmission control (i.e. technical procedures enabling to transfer conditional access control from one broadcaster (transmission provider) to another broadcaster (transmission

provider), allowing the possibility for full control at local or regional level of the services by operators using such systems.

2. Undertakings that provide conditional access services to digital radio and/or television services, irrespective of the means of transmission, whose services broadcasters depend on to reach any group of potential viewers or listeners, irrespective of the means of transmission, must:

1) offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally-transmitted services to be received by viewers or listeners authorised by means of decoders provided and administered by the service providers (operators);

2) if undertakings are engaged, apart from the provision of conditional access to digital radio and/or television services, in other activities, keep separate financial accounts regarding their activity as conditional access providers in accordance with the rules for accounting separation laid down by the Communications Regulatory Authority and in conformity with requirements related to accounting separation, including the auditing requirement.

3. The Communications Regulatory Authority shall have the right to establish the procedure and conditions for implementing the provisions of paragraphs 1 and 2 of this Article.

4. When granting licences to manufacturers of consumer equipment or otherwise granting them the right to use relevant intellectual property rights, holders of intellectual property rights to conditional access to digital radio and/or television service products and systems must ensure that this is done on fair, reasonable and non-discriminatory terms. Taking into account technical and commercial factors, holders of rights may not subject the granting of rights to conditions prohibiting, deterring or discouraging the inclusion in the same product of a common interface allowing connection with several other access systems as well as means specific to another access system, provided that the assignee of rights complies with the relevant and reasonable conditions ensuring, as far as he is concerned, the security of transactions of conditional access system operators.

5. The Communications Regulatory Authority shall have the right to establish requirements for the provision and use of electronic programme guides and similar listing and navigation facilities.

6. It shall be prohibited to manufacture, keep, use, import, export, sell, lease or otherwise transfer, modify, install and maintain decoders, other equipment or software for

commercial purposes enabling illegal access to protected services. The advertising of such equipment and software shall be prohibited. Persons having committed the aforementioned illegal actions shall be held liable in accordance with the procedure established by the law. The State Consumer Rights Protection Authority shall supervise compliance with the provisions set out in this paragraph in accordance with the procedure established by the Government.

#### **Article 26. Special measures ensuring effective competition**

1. Undertakings controlled by the State or municipalities or holding exclusive or special rights, which have significant market power in a considerable part of the common market for the provision of public communications networks and public telephone services and which control a cable television network installed using exclusive or special rights held or being held in the same geographical area, may provide a cable television network only through a legal person other than the legal person used for the provision of a public communications network.

2. Providers of public communications networks and/or public electronic communications services which have also been granted special or exclusive rights for the provision of services in other economic sectors of the Republic of Lithuania or other European Union Member States shall keep separate accounts for the activities associated with the provision of electronic communications networks and/or services in accordance with the accounting separation rules and related requirements including the audit requirement and the requirement to have structural separation for the activities associated with the provision of electronic communications networks and/or services as established by the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to specify the requirements for structural separation.

3. Paragraph 2 of this Article shall not apply to undertakings the annual turnover of which in activities associated with electronic communications networks and/or services in the Republic of Lithuania is less than EUR 50 million.

4. Any undertakings providing public electronic communications networks or public electronic communications services, except for small and medium-sized enterprises, must ensure that their annual financial reports are audited and published. This provision shall also apply to all separate accounts kept pursuant to paragraph 2 of this Article. The Communications Regulatory Authority shall have the right to specify the procedure and conditions for implementing the provisions of this paragraph.

## **Article 27. Measures ensuring the interoperability of electronic communications**

1. The Communications Regulatory Authority shall adopt legal acts obligating to comply with the standards set by international and European standardisation organisations, which have been transposed into Lithuanian standards in accordance with the established procedure, as well as with original Lithuanian standards, international and European specifications and/or recommendations for the provision of electronic communications networks and services as well as associated facilities and services including the broadcasting of radio and/or television programmes, technical interfaces and/or network functions, and the interoperability of terminal equipment, including radio and television programme reception equipment. A natural or legal person shall be considered as having fulfilled the obligation to comply with Lithuanian standards in the above mentioned areas if the person complies with the relevant international or European standards as well as with the relevant Lithuanian standards transposing international or European standards.

2. Until international or European standards in the areas referred to in paragraph 1 above have not been transposed into Lithuanian standards, the Communications Regulatory Authority may request direct compliance with the relevant standards. After having transposed the relevant standard into a Lithuanian standard, any reference to the international or European standard shall be considered to be a reference to the relevant Lithuanian standard. A person or undertaking shall be considered as having fulfilled the obligation to comply with international or European standards in the areas referred to in paragraph 1 above if the person/undertaking complies with the relevant standards transposing international or European standards.

3. Technical requirements of the standards declared by persons or undertakings which have submitted on a voluntary basis a declaration of conformity of their products or services to such standards, including international, European, foreign and Lithuanian standards, shall be binding on the said persons/undertakings.

4. The Communications Regulatory Authority shall have the right to establish independent technical requirements in the areas referred to in paragraph 1 above.

5. The Lithuanian national standardisation authority shall ensure, within the scope of its competence, that international and European standards for the provision of electronic communications networks and services, associated facilities and services including the broadcasting of radio and/or television programmes, technical interfaces and/or network

functions, and the interoperability of terminal equipment, including radio and television reception equipment, are transposed into Lithuanian standards.

6. The owners of application program interfaces shall make available on fair, reasonable and non-discriminatory terms, and against appropriate remuneration, all such information as is necessary to enable providers of digital television services to provide all services supported by the application program interface in a fully functional form, including digital television services provision to disabled end-users.

7. Certificates of conformity issued by the relevant EU institutions and the relevant institutions authorised by EU Member States in respect of measuring instruments and standards recognised in EU Member States shall be recognised in the Republic of Lithuania. The procedure of such recognition shall be established by the Government in conformity with international commitments.

#### **Article 28. Settlement of disputes between undertakings**

1. The Communications Regulatory Authority shall, in the framework of mandatory preliminary out-of-court procedure, resolve disputes over social relations pertaining to the subject of this Law which arise between undertakings providing electronic communications networks and/or services. For solving disputes between the infrastructure users and infrastructure managers over social relations regulated by Articles 38<sup>1</sup> and 39 of this Law, provisions of this Article shall apply. When solving a dispute over social relations regulated by Articles 38<sup>1</sup> and 39 of this Law, institutions exercising state supervision over the installation of suitable purpose physical infrastructure and/or other competent institutions shall, within the period set by the Communications Regulatory Authority, not shorter than 10 working days from the date of receipt of the request from the Communications Regulatory Authority, submit a conclusion on the subject matter of the dispute (with regard to the plaintiff's request, defendant's explanations, etc.).

2. An undertaking that applies to the Communications Regulatory Authority for dispute settlement (including cases where a renewal of dispute resolution is requested) shall pay the Communications Regulatory Authority a dispute settlement fee set in accordance with the procedure and conditions set out in Article 6(3) of this Law. Where the application is satisfied in full or in part, the respondent, at the applicant's request, may be ordered by a decision satisfying the application to compensate the applicant for the amount of the fee paid in proportion to the amount of claims satisfied. Should the costs of dispute settlement exceed the fee paid by the applicant, the Communications Regulatory

Authority shall have the right, when issuing a decision concerning the dispute, to distribute the costs of settling the dispute between the parties, taking account of whether or not the application is satisfied and the extent to which it is satisfied (i.e. in proportion to the amount of the claims satisfied and rejected). Undertakings or persons may not request compensation for the amounts paid to the Communications Regulatory Authority for specific services rendered to them in relation to dispute settlement. In the event that the application is rejected, left without consideration or its consideration is discontinued, the Communications Regulatory Authority shall not refund the fees paid by the applicant.

3. At the request of the party in whose favour the decision of the Communications Regulatory Authority has been taken, the Communications Regulatory Authority may order the other party to compensate the winning party for the costs of dispute settlement. In this case, Article 93(2) of the Code of Civil Procedure shall be applied *mutatis mutandis*. A party in whose favour the decision has been taken shall have the right to the compensation of expenses paid for lawyer's or assistant lawyer's advice in conformity *mutatis mutandis* with Article 98 of the Code of Civil Procedure.

4. The Communications Regulatory Authority shall resolve the dispute in conformity with the principles and objectives of this Law as well as in conformity with the principles of concentration and cost effectiveness, cooperation, competition, optionality and procedural equality of the parties referred to in Articles 7, 8, 12, 13 and 17 of the Code of Civil Procedure to be applied *mutatis mutandis*, unless otherwise provided for in this Law.

5. When accepting an application for dispute resolution, provisions of Article 115(1) to (4) of the Code of Civil Procedure shall apply *mutatis mutandis*.

6. The Communications Regulatory Authority shall refuse to accept an application for dispute resolution in the following cases:

- 1) it is not competent to consider the dispute;
- 2) a decision by the Communications Regulatory Authority, the court or the arbitration court has come into effect regarding a dispute between same parties on same subject matter and on same basis, or a decision by the Communications Regulatory Authority or a court ruling on the refusal to accept the applicant's waiver of the application for dispute resolution or on the approval of an amicable settlement;
- 3) a dispute between same parties on same subject matter and on same basis is under consideration by the Communications Regulatory Authority or pending in court;



4) the parties have agreed to refer the dispute to arbitration and the respondent objects that it be considered by the Communications Regulatory Authority, demanding that the agreement on arbitration be respected, except for disputes that under the law may not be settled by arbitration;

5) an application for dispute resolution has been submitted by an unauthorised person on behalf of the undertaking.

7. The Communications Regulatory Authority shall discontinue the consideration of a dispute if the circumstances referred to in points 1 or 2 of paragraph 6 of this Article become known, also if:

1) the applicant has waived the application for dispute resolution and the Communications Regulatory Authority has approved such waiver;

2) a dispute between same parties on the same subject matter and on the same basis is pending in court;

3) the parties have concluded an amicable agreement which has been approved by the Communications Regulatory Authority. In this case, the amicable agreement shall be considered to be a binding decision by the Communications Regulatory Authority.

8. The Communications Regulatory Authority shall not consider the application if the circumstances referred to in points 4 or 5 of paragraph 6 of this Article become known, also if:

1) the Communications Regulatory Authority is considering a dispute between the same parties on the same subject matter and on the same basis;

2) the application for dispute resolution has deficiencies, such as failure to pay a dispute settlement fee to the Communications Regulatory Authority or submit proof of such payment and the applicant has failed to rectify the situation within a time limit set by the Communications Regulatory Authority.

9. The Communications Regulatory Authority shall suspend the consideration of a dispute if:

1) one of the parties to the dispute ceases to exist (consideration shall be suspended until the rights and liabilities of the party which has ceased to exist are succeeded to or until the circumstances due to which they have not been succeeded to become known). Where it is possible to identify claims unrelated to the party which has ceased to exist, the Communications Regulatory Authority shall continue the consideration of the dispute in respect of such unrelated claims;

2) until another dispute is considered by the Communications Regulatory Authority or another case is pending in court, without the settlement of which the suspended dispute cannot be considered.

10. The Communications Regulatory Authority may, at the request of any party to the dispute or at the request of any other interested undertaking or person or at its own initiative, take provisional protection measures, i.e. issue an injunction to refrain from certain actions or to take certain actions where, in case of failure to take such actions the implementation of the decision by the Communications Regulatory Authority in respect of the application for dispute resolution may become more difficult or impossible. When applying interim measures, *mutatis mutandis*, the provisions of Section 5 of the Civil Procedure Code relating to provisional measures shall apply. Provisional measures shall remain in force until the decision concerning the dispute issued by the Communications Regulatory Authority comes into effect, except where the Communications Regulatory Authority revokes or modifies them at the request of any party to the dispute or at the request of any other interested undertaking or person or at its own initiative. A decision on provisional protection measures issued by the Communications Regulatory Authority may be appealed against to Vilnius Regional Court within seven days from the delivery thereof to the interested undertaking or person. The filing of an appeal to court shall not suspend the consideration of the dispute by the Communications Regulatory Authority. The appeal shall be filed and considered in accordance with the procedure established in paragraph 17 of this Article.

11. Parties to the dispute and other interested undertakings and persons participating in the consideration of the dispute shall have the right to gain access to the materials of the dispute, except for the materials which constitute a state, official or commercial secret of other undertakings or the disclosure of which would violate the right to privacy of a natural person. The respondent shall always have the right to gain access to the text of the application for dispute resolution and the applicant shall always have the right to gain access to the text of the initial pleading. Parties to the dispute and other interested undertakings and persons participating in the consideration of the dispute may submit evidence, explanations, arguments and responsive pleadings to the Communications Regulatory Authority, object to the requests, arguments and responsive pleadings of the other party or other interested undertakings and persons taking part in the consideration of the dispute, receive copies of decisions on dispute settlement adopted by the Communications Regulatory Authority, appeal against decisions by the

Communications Regulatory Authority, and exercise other rights granted by this Law and the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority. The applicant shall have the right to waive its application for dispute resolution. The respondent shall have the right to acknowledge the application. The parties may end the consideration of the dispute by amicable agreement. Parties to the dispute and other interested undertakings and persons participating in the consideration of the dispute must exercise their rights in a fair manner.

12. The Communications Regulatory Authority shall consider disputes by written procedure unless it decides, at the request of any party to the dispute or at the request of any other interested undertaking or person or at its own initiative, that the dispute may be better considered in an oral hearing at a sitting. The Communications Regulatory Authority shall inform the parties about the sitting; however, failure to appear by any of the parties shall not prevent the Communications Regulatory Authority from considering the dispute, unless provided for otherwise in the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority. The consideration of disputes at a sitting shall be public, except for the cases where the Communications Regulatory Authority decides to consider the dispute at a closed sitting in order to protect state, official or commercial secrets or protect a person's right to privacy.

13. The Communications Regulatory Authority shall have the right to refuse to accept evidence, requests and motivations if they could have been submitted earlier.

14. The Communications Regulatory Authority shall issue a decision on the dispute over social relations pertaining to the subject of this Law not later than four months from the date of acceptance of the application, except for the disputes over social relations regulated by Article 38<sup>1</sup> and social relations regulated by Article 39(8) of this Law to the extent they pertain to the receipt of information from infrastructure managers and to the inspection of the infrastructure at the site of its installation or to the shared use of a building and/or its engineering systems. Such decision shall be issued not later than two months from the date of acceptance of the application. The time-limits set out in this paragraph may be extended by a reasoned decision of the Communications Regulatory Authority, where a longer time-limit is required for examining the dispute in view of exceptional circumstances (large amount of evidence, complicated circumstances of the dispute, etc.).

15. The decision of the Communications Regulatory Authority becomes effective and binding after the deadline specified in paragraph 18 of this Article during which the

parties have the right to appeal directly to Vilnius Regional Court and ask them to consider the dispute as to the substance of the matter. Procedural decisions of the Communications Regulatory Authority issued in the course of proceedings shall be effective and binding from the day of their adoption.

16. Decisions on disputes issued by the Communications Regulatory Authority shall be public to the extent that it does not violate the protection of state, official or commercial secrets or the privacy of a natural person. The rules for the settlement of disputes between undertakings by the Communications Regulatory Authority shall establish the procedure whereby parties to the dispute and other interested undertakings and persons who have participated in the consideration of the dispute shall specify which information in the text of the decision should be confidential. The law interpretation rules set out in the text of the decision shall be public in all cases. The parties to the dispute shall be provided with a detailed and reasoned decision issued by the Communications Regulatory Authority.

17. The Communications Regulatory Authority's procedural decisions to reject the application, leave the dispute without consideration, other procedural decisions issued in the course of dispute settlement, which prevent further consideration of the dispute, may be appealed against in conformity *mutatis mutandis* with the provisions of Section 2 of Chapter XVI of the Code of Civil Procedure to Vilnius Regional Court within seven days from the delivery of such decision to the interested undertaking or person. The ruling of Vilnius Regional Court concerning a decision of the Communications Regulatory Authority shall not be subject to appeal.

18. Parties to the dispute, within 14 days after the decision of the Communications Regulatory Authority, which resolves the dispute as to the substance of the matter or by which dispute settlement is terminated, shall have the right to apply directly to Vilnius Regional Court and ask them to consider the dispute as to the substance of the matter. In such case, the parties' procedural position does not change.

19. A decision issued by the Communications Regulatory Authority (including procedural decisions taken in the course of consideration of the dispute) shall be a document to be executed. If the decision is not executed, it may be executed in a compulsory manner in accordance with the procedure established by the Code of Civil Procedure. The decision may be presented for execution not later than within ten years from the date of its adoption.

20. The procedure of dispute settlement may be renewed at the Communications Regulatory Authority in conformity *mutatis mutandis* with the procedure established in Chapter XVIII of the Code of Civil Procedure.

21. The Communications Regulatory Authority shall adopt the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority. The rules shall set out the requirements in respect of the form, content and filing of applications for dispute resolution, the submission and collection of evidence; they shall specify the framework, procedure and conditions for applying, revoking and modifying provisional protection measures and establish a detailed dispute settlement procedure.

22. The rules for the settlement of disputes between undertakings by the Communications Regulatory Authority may provide for the consideration of disputes and adoption of all relevant decisions by a commission set up by the director of the Communications Regulatory Authority. In this case, the rules for the settlement of disputes between undertakings by the Communications Regulatory Authority may provide that the decision of such a commission whereby the dispute is resolved in substance or its consideration is discontinued shall come into effect only subject to its approval by the director of the Communications Regulatory Authority.

23. Undertakings providing electronic communications networks and/or services shall have the right to refer to the Communications Regulatory Authority to mediate between and/or achieve a reconciliation of the undertakings in order to resolve a dispute over social relations pertaining to the subject of this Law in an amicable manner, without issuing a binding decision. The Communications Regulatory Authority shall establish the relevant rules of procedure.

## **CHAPTER FOUR**

### **RIGHT TO ENGAGE IN ELECTRONIC COMMUNICATIONS ACTIVITIES**

#### **Article 29. Basis for the right to engage in electronic communications activities**

1. Undertakings shall have the right to engage in electronic communications activities in accordance with the provisions of this Law and other legal acts without prior individual permission by state institutions.

2. The Communications Regulatory Authority shall adopt legal acts establishing the general terms and conditions under which undertakings may engage in electronic communications activities.

3. The Communications Regulatory Authority shall approve a list of types of electronic communications activities that an undertaking must notify the Communications Regulatory Authority about if it seeks to engage in any of them. The undertaking shall have the right to engage in the relevant activity after notifying the Communications Regulatory Authority thereof in accordance with the procedure and conditions set forth by the Communications Regulatory Authority.

4. The Communications Regulatory Authority, taking account of the field and scope of activity, shall determine what information and documents an undertaking must submit at the time of notification of the start of activity. The Communications Regulatory Authority may request the submission of only a notification confirming the intention to commence the provision of electronic communications networks or services and the submission of the minimum information which is required to include the undertaking in a list of providers of electronic communications networks and services. This information must be limited to what is necessary for the identification of the provider of electronic communications networks and services (such as the identification number) and the provider's contact persons, the provider's address, a short description of the network and service to be provided, and an estimated date of starting the activity.

5. Upon the receipt of an undertaking's notification of the start of electronic communications activities, the Communications Regulatory Authority shall inform the undertaking not later than within seven days about the receipt of the notification, specifying whether or not it complies with the provisions of the legal acts adopted by the Communications Regulatory Authority concerning the general terms and conditions for engaging in electronic communications activities.

6. Undertakings complying with the provisions of the legal acts adopted by the Communications Regulatory Authority concerning the general terms and conditions for engaging in electronic communications activities shall have the right to request that the Communications Regulatory Authority issue a standardised confirmation indicating that the undertaking has submitted a notification of the start of its activity and detailing under what circumstances any undertaking providing electronic communications networks or services under the provisions of legal acts concerning the terms and conditions for engaging in the relevant electronic communications activity has the right to install an

electronic communications infrastructure, negotiate interconnection, and/or obtain access. The confirmation shall be issued not later than within seven days after the receipt of an appropriate request for confirmation. The state fee shall be levied for the issuance of a confirmation. The procedure and conditions for the issue of such confirmations shall be set forth by the Communications Regulatory Authority.

7. Before terminating an electronic communications activity included in the list of types of electronic communications activities approved by the Communications Regulatory Authority, the undertaking shall notify the Communications Regulatory Authority in accordance with the procedure established thereby.

8. Undertakings seeking to engage or engaged in electronic communications activities shall pay to the Communications Regulatory Authority administrative charges for the services provided and work performed as prescribed by Article 6(3) of this Law.

**Article 30. Provisions of legal acts establishing the general terms and conditions for engaging in electronic communications activities**

1. Common rules of the Communications Regulatory Authority regulating electronic communications activities must be non-discriminatory, transparent and proportional. The Communications Regulatory Authority shall only provide for conditions that are specific to the electronic communications sector and which are not provided for by other legislation. Legal acts establishing the common rules for the electronic communications activities shall provide for the criteria and procedures for imposing obligations on undertakings having significant market power and undertakings, which are authorised to provide universal services, or references shall be made to relevant legislation.

2. The provisions of legal acts adopted by the Communications Regulatory Authority establishing the general terms and conditions for engaging in electronic communications activities may be related only to:

- 1) terms and conditions for paying financial contributions to the funding of universal service;
- 2) payment of charges to the Communications Regulatory Authority;
- 3) compatibility of services and conditions of interconnection of networks;
- 4) access to telephone numbers given in the national numbering plan, the European Telephone Numbering Space and international freephone telephone numbers and, where

technically and economically feasible, other European Union Member States, numbering plan numbers to end-users;

5) implementation of the legal acts relating to environmental protection and territorial planning as well as conditions linked to the granting of the right to use land holdings (landholding) and conditions linked to the sharing of buildings and electronic communications infrastructure including any financial or technical guarantees necessary to ensure the proper execution of infrastructure works;

6) “must-carry” rules for the transmission of radio and television programmes;

7) personal data and privacy protection rules specific to the electronic communications sector;

8) specific consumer protection rules for the electronic communications sector covering, *inter alia*, the disabled end-users' access to public electronic communications services;

9) restrictions in relation to the transmission of illegal or harmful content in accordance with the legal acts of the Republic of Lithuania;

10) provision of information;

11) enabling of interception by competent authorities in accordance with the procedure established by the law;

12) conditions for the use by competent authorities of electronic communications to inform the public about the risks or reduce the effects of disasters;

13) conditions of use of electronic communications during natural disasters or other extreme situations to ensure communication between emergency services, institutions servicing emergency calls and other emergency institutions;

14) measures regarding the limitation of exposure of the general public to electromagnetic fields caused by electronic communications networks;

15) access obligations other than those imposed on undertakings having significant market power on the relevant market or on undertakings designated to provide universal services;

16) maintenance of the integrity of public communications networks including by conditions to prevent electromagnetic interference between the electronic communications networks and/or services;

17) protection of public communications networks against unauthorised access;

18) conditions for the use of radio frequencies (channels), where such use is not made subject to individual authorisation, taking into account that the use of radio



equipment may only be restricted for reasons related to an effective and appropriate use of the radio spectrum, prevention of harmful interference or to public health;

19) measures designed to ensure conformity with standard specifications, recommendations and/or technical requirements;

20) transparency obligations imposed on the public communications network providers granting public electronic communications services in order to ensure the link between end-users, as well as information on conditions for provision and use of the access to services and applications, including legitimate limitations on access to services and/or applications and restrictions, and provision of information necessary to check the legality of such limitations to the Communications Regulatory Authority.

3. Undertakings providing electronic communications networks and/or services must submit reports on their activity to the Communications Regulatory Authority in accordance with the procedure and conditions set forth by the Authority.

4. The provisions of the legal acts of the Communications Regulatory Authority establishing the general terms conditions for engaging in electronic communications activities may be amended in objectively justified cases and in a proportionate manner. A communication must be given of the intended changes on the website of the Communications Regulatory Authority and interested parties, including service users and consumers, shall be allowed to express their views on the proposed amendments, within a period which shall be no less than 28 days, unless the exceptional circumstances, when the expected changes are minor and do not change the essence of the legal regulation and have been agreed with the interested undertakings.

## **CHAPTER FIVE**

### **UNIVERSAL SERVICES, RIGHTS OF END USERS AND CONSUMERS**

#### **Article 31. Provision and funding of universal service**

1. The provision of the following universal services must be ensured within the territory of the Republic of Lithuania:

1) connection to the public communications network at a fixed location and the public telephone services;

2) a payphone or other publicly accessible public telephone services accessible in places where public telephone services are provided;

3) public directory enquiry services;

4) accessibility of electronic communications services for disabled end-users.

2. The Government shall establish a ceiling for universal service prices and rules for the reimbursement of losses for the universal services provided.

3. The Communications Regulatory Authority shall issue the rules for providing universal services regulating to the scope of universal services, quality requirements, procedure and conditions for provision of such services, procedure, conditions and cases of imposition, change and/or repeal of obligations on electronic communications services providers to provide universal services as well as rules for publication of information about service quality. The universal service obligations may also be related to having significant market power on the relevant market. The Communications Regulatory Authority shall have the right to impose obligations, which are necessary in order to properly provide universal services, on undertakings which have not been authorised to provide universal services.

4. When verifying if an undertaking with universal service obligations fulfils such obligations, the Communications Regulatory Authority shall have the right to order independent audits and/or similar reviews of the performance data, paid for by the undertaking concerned, in order to ensure the accuracy and comparability of the data. Such independent audits and/or similar reviews, paid for by the undertaking concerned, may be ordered not more often than once per calendar year, except for the cases where there is reasonable suspicion that the undertaking acts in violation of legal acts or where the undertaking seeks compensation for losses incurred in connection with the provision of services. An auditor or an audit firm shall be selected by tender. Tender conditions and procedure shall be established by the Communications Regulatory Authority.

5. Losses for provision of services provided for in paragraph 1 of this Article shall be compensated in cases and following the conditions of the procedure provided for in the rules for compensation of losses for provision of universal services with the funds of public telephone service providers. The Government shall have the right to establish other sources for compensating the losses incurred in connection with universal services. The Government may authorise the Communications Regulatory Authority to lay down the rules for the calculation of losses, impose a compensation mechanism and determine the amount of losses in specific cases. The Communications Regulatory Authority shall have the right to review the accounts of an undertaking as well as other information used for the calculation of the amount of losses and to request the undertaking to submit an audit opinion. The results of the loss calculation and the conclusions of the review carried out

by the Communications Regulatory Authority and/or the audit opinion shall be made public. The Communications Regulatory Authority shall inform the European Commission of a compensation mechanism when the losses are compensated with the funds of the public telephone service providers.

6. Repealed as of 1 August 2011.

7. The Communications Regulatory Authority shall inform the European Commission about the undertakings authorised to provide universal services, and the universal services, which are to be provided by authorised undertakings, and any changes of such information.

8. When an undertaking has an obligation to provide universal services and intends to transfer its entire assets of the access to the public communications network at a fixed location or a substantial part of its assets to another undertaking, it shall in advance inform the Communications Regulatory Authority about this fact in accordance with the terms and conditions of the rules issued by the Communications Regulatory Authority in order for the Authority to be able to make the assessment of the impacts of the planned transaction on the provision of access to a public communications network at a fixed location and public telephone services. After receiving the information referred to in this paragraph the Communications Regulatory Authority may impose, amend or repeal the obligations provided for in Article 32 of this Law.

### **Article 32. Obligations related to the provision of services to end users**

1. Having decided that the obligations that may be imposed under Articles 18, 19, 20, 21, 22, 23 and 23<sup>1</sup> of this Law and under Article 33 of this Law are not sufficient, the Communications Regulatory Authority shall impose on an undertaking having significant market power on the relevant market the obligations that are appropriate, based on the nature of the problem identified, proportionate and justified in light of the objectives to be achieved, including requirements not to charge excessive prices, inhibit market entry or restrict competition by setting predatory prices, to show undue preference to specific end-users or unreasonably bundle services, also the obligations to ensure the quality of services established by the Communications Regulatory Authority. In order to protect the end-user interests and promote effective competition, the Communications Regulatory Authority shall have the right to establish price caps, apply measures to control individual tariffs and impose obligations to orient tariffs towards costs or prices on comparable markets. Where

an obligation is imposed on an undertaking to orient tariffs towards costs, provisions of Article 23(3) of this Law shall apply *mutatis mutandis*.

2. The Communications Regulatory Authority shall ensure that, where tariff regulation or other relevant obligations are imposed on an undertaking, the undertaking keeps its cost accounts in accordance with the rules established by the Communications Regulatory Authority. Such an undertaking shall within the time limit established by the Communications Regulatory Authority prepare a cost accounting system, publish its description and submit it to the Communications Regulatory Authority, and comply with the cost accounting system. The cost accounting system must be in conformity with the cost accounting rules established by the Communications Regulatory Authority. The Communications Regulatory Authority shall have the right to establish a cost accounting system and the format and accounting methodology to be used by undertakings or a specific undertaking having significant market power on the relevant market. The Communications Regulatory Authority shall publish the accounting system on their website. Compliance of an undertaking's cost accounting with the cost accounting rules and other legal acts as well as with the cost accounting system and/or accounting methodology and/or format prepared by the undertaking and/or established by the Communications Regulatory Authority shall be verified by an audit. The audit opinion shall be published once a year in accordance with the rules established by the Communications Regulatory Authority.

### **Article 33. Selection of provider of public telephone services**

1. Undertakings having significant market power for the provision of connection to and use of the public communications network at a fixed location must, in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, enable at their own expense their subscribers to access the services of any provider of public telephone services. Access prices related to the enforcement of such rights shall be cost oriented. For this purpose, the rules set out in Article 23 of this Law shall apply. Tariffs imposed on subscribers for the exercise of such rights may not act as a disincentive for the use of such a possibility. For this purpose, the Communications Regulatory Authority may fix a tariff ceiling.

2. The obligation referred to in paragraph 1 above may be imposed by the Communications Regulatory Authority on any undertaking having significant market

power on the relevant market as well as in relation to the imposition of the obligation referred to in Article 17(1)(4) of this Law.

#### **Article 34. Duties and rights of public electronic communications service providers and end users**

1. A contract on the provision of electronic communications services shall be a public contract. Services shall be provided and a contract on the provision of electronic communications services shall be concluded in accordance with the rules for provision of electronic communications services approved by the Communications Regulatory Authority.

2. Providers of public electronic communications services must publish transparent, comparable, adequate and up to date information about the prices of services and rates, all wages due on termination of the contract, the standard terms of service, quality of service and the measures taken to ensure equivalent accessibility of electronic communications services for disabled end-users. Such information for end-users must be provided in a clear, comprehensive and easily accessible form. The information referred to in this paragraph shall be submitted to the Communications Regulatory Authority. The Communications Regulatory Authority shall establish the rules for the publication of information and its submission to the Communications Regulatory Authority, including the scope and content of information, the time limit, form and method of its publication and/or submission, and quality assessment rules.

3. In order to ensure quality of public electronic communications services, the Communications Regulatory Authority may impose on public communications networks' providers the minimum quality requirements. Before imposing such requirements, the Communications Regulatory Authority shall submit to the European Commission and the Body of European Regulators for Electronic Communications a draft decision stating the reasons, requirements to be imposed, as well as other necessary information. When adopting the final decision on the requirements referred to in this paragraph, the Communications Regulatory Authority shall take into account the comments or recommendations of the European Commission.

4. When providing a user with terminal equipment free of charge or when offering the terminal equipment at a lower price than its cost price, the provider of public electronic communications services must indicate in the contract on the provision of electronic communications services the difference in its selling price with and without a service

provision contract as well as the period of time and manner in which this difference will be compensated.

5. The provider of public electronic communications services must examine free of charge the received applications from the end users, proposals and complaints concerning electronic communications services provided or intended to be provided by it and issue a reply within 14 days from the receipt thereof.

6. The provider of public electronic communications services shall inform the subscriber free of charge in an easily accessible form about the services provided and about tariffs and prices if the subscriber so requests.

7. Providers of public telephone services providing end users with access to the public communications network shall ensure the provision of directory enquiry services to end users. The Communications Regulatory Authority shall issue the rules for provision of directory enquiry services. The Communications Regulatory Authority shall have the right to impose on undertakings that control the end-users' access to directory enquiry information objective, unbiased, non-discriminatory and transparent obligations to ensure that all end-users which are provided with public telephone services can access the public telephone directory enquiry services.

8. All public telephone service providers, who assign telephone numbers to subscribers, must ensure their public telephone subscribers to be included in the public printed and/or electronic subscriber lists, as well as meet in a fair, cost based and non-discriminatory way all reasonable requests of service providers for information on the public telephone directory enquiry for receiving public telephone directory enquiry information in accordance with the terms and conditions set out in Article 67 of this Law. The Communications Regulatory Authority shall have the right to determine detailed information disclosure requirements.

9. Undertakings providing electronic communications networks and/or services shall not provide third parties, at the request of subscribers, with information about the number, location and ownership of terminal equipment, except for the cases established by a decision of the Communications Regulatory Authority for the purpose of performing its tasks and to public order maintenance bodies identified by a decision of the Communications Regulatory Authority for the purpose of performing their tasks as well as in other cases established by the law.

10. All providers of public communications networks and/or public electronic communications services in accordance with terms and conditions set by the

Communications Regulatory Authority must provide free access to emergency services for their subscribers and/or users of public electronic communications services, including users of public pay telephones and disabled subscribers and/or users.

11. Providers of public communications networks and/or public electronic communications services shall ensure, on their own account and in accordance with the procedure and conditions set forth by the Communications Regulatory Authority, that subscribers retain their numbers where there is a change of telephone service provider or the location of service provision or the way of service provision. Access prices related to the enforcement of such rights shall be cost oriented. For this purpose, the Communications Regulatory Authority shall have the right to apply the rules set out in Article 23 to all undertakings bound by this paragraph. Tariffs imposed on subscribers for the exercise of such rights in the cases permitted by the Communications Regulatory Authority and according to the conditions set forth by it may not act as a disincentive for the use of such a possibility. For this purpose, the Communications Regulatory Authority may fix a tariff ceiling.

12. Providers of public telephone communications services shall give subscribers who so request a possibility to choose a payment plan where charges for public telephone services are imposed on the basis of calculation with the accuracy of a second, except for the cases where the provider of public telephone communications services uses data rates as a basis for charging data communications.

13. Undertakings providing electronic communications networks and/or services must submit to the Communications Regulatory Authority information about the nature of technical data on electronic communications recorded and stored and the duration of such storage.

14. Undertakings providing electronic communications networks and/or services shall designate natural persons to work with communications of entities of criminal intelligence and intelligence institutions, use of technical measures in their networks in accordance with special procedure, be responsible for fulfilment of enquiry requirements of entities of criminal intelligence, pre-trial investigation institutions, prosecutors, courts or judges. Such natural persons must have security clearance and must be authorised to work with or have access to classified information in accordance with the procedure established by the Government.

15. public electronic communications service providers must ensure disabled end-users' access to electronic communication services, that are used by the majority of end-

users, as well as ensure that disabled end-users be able to use benefits of the public electronic communications service providers and their services chosen by the majority of end-users. The Communications Regulatory Authority may impose requirements on public electronic communications service providers related to ensuring access for disabled end-users to electronic communications services.

16. In case court finds that the use of public communications networks and/or public electronic communications services was illegal or forged, court shall have the right to instruct providers of public communications networks and/or public electronic communications services to terminate the said services or block calls to certain telephone numbers and confiscate income received from illegal or forged public electronic communications services.

**Article 35.** Repealed as of 1 August 2011.

**Article 36. Out-of-court settlement of disputes between end users and electronic communications service providers**

1. Where a dispute arises between an end user and a provider of electronic communications services, the end user shall have the right to apply to the Communications Regulatory Authority for the settlement of the dispute in an out-of-court procedure. The end user may also apply directly to court.

2. In the course of consideration of disputes based on applications of end users, except for consumers, provisions of Paragraphs 6, 7, 8, 9, 11, 12, 13, 15, 16 and 20 of Article 28 of this Law shall apply *mutatis mutandis*.

3. The end user who considers that a provider of public electronic communications services has violated his rights or legitimate interests first of all must apply in writing to the provider of public electronic communications services and specify his requirements. If without having applied to a provider of electronic communications services the end user applies to the Communications Regulatory Authority, the Communications Regulatory Authority shall refuse to consider the application of the end user to resolve the dispute.

4. The Communications Regulatory Authority shall establish the rules for settlement of disputes of end users, except for consumers, and of providers of electronic communications services at the Communications Regulatory Authority. The rules shall set out the requirements in respect of the form, content and filing of such applications, as well as submission and collection of evidence, specify dispute resolution and decision taking



bodies, and detailed procedure for the conciliation of parties to a dispute and resolution of a dispute.

5. Disputes of consumers and providers of electronic communications services shall be settled in accordance with the Law of the Republic of Lithuania on Consumer Protection.

6. Decisions of the Communications Regulatory Authority taken after the resolution of disputes of end users and providers of electronic communications services shall come into force and be binding, if none of the parties to the dispute within 30 days after the Communications Regulatory Authority's decision on merits of the dispute does not file a claim to the court of general competence in accordance with the procedure laid down by the Code of Civil Procedure, requesting to resolve the dispute as to the substance of the matter. Any appeal to the court of general jurisdiction after the adoption of the Communications Regulatory Authority's decision on merits of the dispute shall not be deemed to be the appeal against the decision of the Communications Regulatory Authority.

7. Upon the entry into force the decision of the Communications Regulatory Authority shall be subject to execution. If the decision is not executed, it may be executed in a compulsory manner in accordance with the procedure established by the Code of Civil Procedure.

8. Procedural decisions of the Communications Regulatory Authority, including decisions to refuse to resolve a dispute, to suspend or terminate resolution of a dispute, where such decisions prevent any further dispute resolution, may be appealed against to the court of general competence within seven days from the delivery thereof to the interested person. The court rulings in relation to the decisions referred to in this Paragraph shall not be subject to appeal.

## **CHAPTER SIX**

### **CONSTRUCTION, MAINTENANCE AND PROTECTION OF ELECTRONIC COMMUNICATIONS NETWORKS**

#### **Article 37. Basis for the installation of electronic communications infrastructure**

1. Providers of electronic communications networks shall have the right to install electronic communications infrastructure in the land owned by them by ownership right or

for which a servitude has been established or where the providers have the right to use it on some other basis without changing the purpose of land. In cases set out in the Law on Territorial Planning, special plans for the development of electronic communications networks shall be prepared for the layout of towers and masts belonging to the electronic communications networks assigned to construction works of extraordinary significance the procedure of organization, preparation, correction, coordination, inspection, and approval whereof shall be established by the rules for the preparation of special plans for the development of electronic communication networks approved by an order of the Minister of Transport and Communications of the Republic of Lithuania and the Minister of Environment of the Republic of Lithuania.

2. Electronic communications infrastructure removal works performed when building or reconstructing buildings, bridges and other structures shall be carried out by the customers on their own account according to the technical specifications provided by the owners of electronic communications infrastructure and after having coordinated such work with the above mentioned owners, unless the customers and the owners do not agree otherwise.

3. Repealed as of 24 December 2016.

4. The installation, protection, sharing and maintenance of electronic communications infrastructure shall be regulated by the Law on Territorial Planning, the Law on Construction, the Law on Protected Territories, the Law on Environmental Impact Assessment of Planned Economic Activity, the Law on Roads, the rules for the installation and use of electronic communications networks approved by the Communications Regulatory Authority and other legal acts.

5. Communication lines, cables and communication cable duct systems shall be considered movable objects.

6. The State shall develop broadband infrastructure in areas where they do not exist or where there is no competition in the provision of broadband services. Public broadband infrastructure development shall be coordinated and implemented by the institution authorised by the Government.

7. Detailed requirements for the installation of the engineering systems of a common use building, local and public utilities for installation of electronic communications networks shall be approved by the institution authorised by the Government.

8. Regulations for the main areas of technical activities of electronic communication infrastructure installation shall be approved by the institution authorised by the Government. Main areas of technical activities of electronic communication infrastructure installation shall be:

- 1) pre-designing investigation;
- 2) design works and supervision of the implementation of the design;
- 3) expert examination of a design;
- 4) installation works and their completion;
- 5) technical supervision of the installation.

**Article 38. Installation, protection, sharing and maintenance of electronic communications infrastructure in road systems**

1. Having coordinated their actions with state or municipal institutions, persons may use free of charge the lanes of state and municipal roads, squares, pipelines, water bodies and their shores, bridges, viaducts, tunnels and other structures for the construction of public communications networks.

2. Upon the completion of installing, reconstructing or repairing electronic communications infrastructure, the person must put roads and/or related structures in order in accordance with the procedure established by legal acts.

**Article 38<sup>1</sup>. Joint installation of the electronic communications infrastructure and/or suitable purpose physical infrastructure**

1. Infrastructure managers who intend to carry out installation works of the electronic communications infrastructure and/or suitable purpose physical infrastructure, intended for the provision of production, supply, distribution, and/or transport services that are fully or partially funded with resources of the State, municipality, the European Union structural funds (hereinafter: 'the installation works') shall provide necessary information to the Communications Regulatory Authority not later than two months before applying to competent institutions for obtaining the necessary permits to perform the installation works (if such permits are not necessary, before the start of installation works), under the procedure and conditions laid down by the rules for the installation and use of the electronic communications infrastructure; such information shall contain data with the information on the intended beginning of the installation works and possibilities for infrastructure users to have installed the electronic communications infrastructure at the

time of carrying out the installation works by infrastructure managers (hereinafter: 'joint installation of infrastructure').

2. Pursuant to paragraph 1 of this Article, infrastructure managers shall provide the Communications Regulatory Authority with information on:

- 1) type of electronic communications infrastructure and/or suitable purpose physical infrastructure, its elements, and place of installation;
- 2) intended beginning of the installation works and duration of these works;
- 3) contact (personal or unit) data.

3. The Communications Regulatory Authority shall publish information referred to in paragraph 2 of this Article on its website under the procedure laid down by the rules for the installation and use of the electronic communications infrastructure.

4. The infrastructure user, requesting to have installed the electronic communications infrastructure, shall submit a request to jointly install the infrastructure to the electronic communications infrastructure manager from the date of publishing the information specified in paragraph 2 of this Article on the website of the Communications Regulatory Authority, but not later than one month before the application of the infrastructure manager to competent institutions for the necessary permits (if such permits are not necessary, before the start of installation works).

5. Infrastructure managers intending to carry out the installation works shall allow the infrastructure users to have the electronic communications infrastructure installed under proportionate, transparent, and non-discriminatory conditions, except for the cases where:

- 1) unreasonable additional costs would emerge, including costs caused by the delay of the installation works;
- 2) this would impede the performance of installation works;
- 3) a request to jointly install the infrastructure was filed after the time-limit set out in paragraph 4 of this Article had expired (when less than one month remains before the application of the infrastructure manager to competent institutions for the necessary permits (if such permits are not necessary, before the start of installation works)).

6. The infrastructure manager has the right to apply to competent institutions for permits to carry out the installation works under the procedure laid down by the Law on Construction of the Republic of Lithuania and its implementing legislation (if such permits are not necessary, the infrastructure manager has the right to start installation works), if:

1) the infrastructure manager has not received requests to jointly install the infrastructures within the time-limit set out in paragraph 4 of this Article;

2) the time-limit set out in paragraph 4 of this Article has expired and the infrastructure manager has concluded an agreement (agreements) on joint installation of infrastructures with the infrastructure user (users) who have filed a request (requests) to jointly install the infrastructures;

3) the infrastructure manager refused to satisfy the request to jointly install the infrastructures and the infrastructure user did not apply to the Communications Regulatory Authority for solving this dispute within one month of receipt of the refusal, whereas the time-limit set out in paragraph 4 of this Article has expired;

4) the infrastructure manager refused to satisfy the request to jointly install the infrastructures and a decision on the dispute issued by the Communications Regulatory Authority has come into force, whereas the time-limit set out in paragraph 4 of this Article has expired.

7. The infrastructure manager must conclude an agreement on joint installation of the infrastructures with the infrastructure user or refuse, in writing, to conclude it on a reasoned basis not later than one month from the receipt of the request to jointly install the infrastructures. Conclusion of the agreement on joint installation of infrastructures shall not grant to the infrastructure user ownership rights to the electronic communications infrastructure and/or suitable purpose physical infrastructure being installed by the infrastructure manager, except for the cases when it has been provided for otherwise in the agreement on joint installation of the infrastructures.

8. When negotiating regarding the conclusion of the agreement on joint installation of the infrastructures, the infrastructure user, upon filing a request to the infrastructure manager, is entitled to receive information referred to in paragraph 10 of this Article on ongoing or planned installation works, when necessary permits to carry out these works have been issued or when an application for these permits has been made to competent institutions, or it is intended within the coming six months to apply to competent institutions regarding them (if such permits are not necessary, the start of installation works is planned within the coming six months). The infrastructure manager has the right to apply to the Communications Regulatory Authority with a request to publish information referred to in paragraph 10 of this Article on the installation works indicated in this paragraph under the procedure laid down by the rules for installation and use of the electronic communications infrastructure.

9. The infrastructure manager shall examine the request indicated in paragraph 8 of this Article and furnish the information under non-discriminatory, transparent, and proportional conditions or refuse to furnish it not later than 14 days from the date of receipt of the request. The infrastructure manager does not have the right to refuse to satisfy the request referred to in paragraph 8 of this Article, except for the cases when:

1) the provision of information would endanger the safety and/or integrity of the electronic communications infrastructure, and/or suitable purpose physical infrastructure, public safety and/or health;

2) the infrastructure manager has already published the information requested to be furnished;

3) the requested information has already been published on the website of the Communications Regulatory Authority.

10. The infrastructure manager shall furnish the infrastructure user with information in accordance with the procedure laid down by the rules for the installation and use of the electronic communications infrastructure, except for the cases referred to in paragraph 9 of this Article, on:

1) type of the electronic communications infrastructure and/or suitable purpose physical infrastructure, its elements and place of installation;

2) intended date of the beginning of installation works and the duration of these works;

3) contact (personal or unit) data.

11. If disputes arise between the infrastructure manager and the infrastructure user over the joint installation of infrastructures, conclusion of an agreement on joint installation of infrastructures and/or conditions of this agreement (including any requirements associated with this agreement), and the failure to provide or the improper provision of the information referred to in paragraph 10 of this Article, the party concerned has the right to apply to the Communications Regulatory Authority with a request to resolve the dispute.

12. The Communications Regulatory Authority shall establish the procedure and conditions of joint installation of infrastructures in the rules regulating the installation and use of the electronic communications infrastructure.

13. Infrastructure users, on receipt of the information referred to in paragraph 10 of this Article, shall ensure the confidentiality of the information, except for the information

that may not be confidential under the procedure, in cases and conditions laid down by this Law .

**39 Article. Sharing of the electronic communications infrastructure and/or suitable purpose physical infrastructure**

1. The infrastructure managers have the right to offer the infrastructure users to share their controlled existing electronic communications infrastructure and/or suitable purpose physical infrastructure and install the electronic communications infrastructure by publishing information on the existing electronic communications infrastructure and/or suitable purpose physical infrastructure (type of infrastructure, place of its installation, routing, filling, etc.).

2. If the infrastructure user cannot make use of the right to install the necessary electronic communications infrastructure or the costs of the use of such a right are disproportionately high and when this does not require significant additional work on part of the infrastructure manager, the infrastructure manager should conclude, respecting the principle of non-discrimination and transparency, an agreement on the sharing of existing electronic communications infrastructure and/or suitable purpose physical infrastructure and installation of the electronic communications infrastructure (hereinafter: ‘the contract on the sharing of infrastructure’).

3. The infrastructure manager, in the cases referred to in paragraph 2 of this Article or on the grounds that there are no documents attesting lawfulness of the infrastructure manager’s control over the electronic communications infrastructure and/or suitable purpose physical infrastructure (the infrastructure manager does not have them, they have been lost, etc. ), may not refuse to conclude an agreement on the sharing of infrastructure with the infrastructure user, unless there exists at least one objective, transparent, and proportionate ground referred to below:

1) existence of technically and economically justified alternatives for the installation of the new electronic communications infrastructure and the infrastructure user may make use of the right to install the necessary electronic communications infrastructure, whereas the costs of using such a right are not disproportionately high;

2) conclusion of an contract on the sharing of infrastructure and/or performance thereof would violate the requirements governing the installation and/or use of the electronic communications infrastructure and/or suitable purpose physical infrastructure;

3) conclusion of the contract on the infrastructure and/or performance thereof would endanger the safety and/or integrity of the electronic communications infrastructure and/or suitable purpose physical infrastructure, public safety and/or health;

4) there is no sufficient space within the electronic communications infrastructure and/or suitable purpose physical infrastructure allowing to install the electronic communications infrastructure of the infrastructure user, and there is no possibility to change the old and non-used electronic communications infrastructure and/or suitable purpose physical infrastructure or dismantle it in order to make sufficient space for installing the electronic communications infrastructure of the infrastructure user; the internal diameter of the pipe of the infrastructure manager, having control of the electronic communications infrastructure, necessary for installing cables of the infrastructure user is calculated under the procedure and conditions laid down in paragraph 7 of this Article;

5) it was provided for in the development projects of the electronic communications infrastructure and/or suitable purpose physical infrastructure approved by the infrastructure manager to carry out the development of electronic communications infrastructure and/or suitable purpose physical infrastructure within the coming 24 months (for example, to lay electronic communication lines, install apparatuses and equipment, other electronic communications infrastructure, and/or suitable purpose physical infrastructure), whereas sharing of the existing electronic communications infrastructure and/or suitable purpose physical infrastructure, and/or the electronic communications infrastructure installed by the infrastructure user will impede the implementation of these projects;

6) installation of the electronic communications infrastructure would cause unacceptable impediments to operating the existing electronic communications infrastructure and/or suitable purpose physical infrastructure, or the previously installed electronic communications infrastructure that was set up by sharing this electronic communications infrastructure and/or suitable purpose physical infrastructure;

7) the existing electronic communications infrastructure and/or suitable purpose physical infrastructure requested to be shared is not suitable for implementing the goals of shared usage of the existing electronic communications infrastructure and/or suitable purpose physical infrastructure indicated by the infrastructure user (for example, laying of electronic communications lines, apparatuses, equipment, or installing other electronic communications infrastructure).



4. The procedure and conditions of sharing the specific existing electronic communications infrastructure and/or suitable purpose physical infrastructure, also the procedure and conditions of installing the electronic communications infrastructure are established in the contract on the sharing of infrastructure in accordance with the rules laid down in paragraph 7 of this Article. The infrastructure manager may not request that the contract on the sharing of infrastructure concluded in accordance with paragraph 2 of this Article should be amended or terminated if contractual obligations are being fulfilled.

5. By agreement of the parties, the infrastructure user shall pay the infrastructure manager a fee for the usage of the electronic communications infrastructure and/or suitable purpose physical infrastructure. The Communications Regulatory Authority, when solving a dispute between the infrastructure user and the infrastructure manager, has the right to determine the amount of the fee for the usage of the electronic communications infrastructure and/or suitable purpose physical infrastructure. If there is an economic justification, the infrastructure manager has the right to review the amount of the fee, but not more often than once a year. The infrastructure manager shall inform the infrastructure user of the intended changes in the fee and shall furnish him with a proof of economic justification of the amended fee not later than three months before the entry into force of the amended fee. In this case, the infrastructure user shall have the right to terminate unilaterally the agreement on the sharing of infrastructure before the entry into force of the new fee.

6. If disputes arise between the infrastructure manager and the infrastructure user over conclusion of an contract on the sharing of infrastructure and/or terms of this contract (including any requirements associated with this agreement), the right to inspect on site the specific electronic communications infrastructure and/or suitable purpose physical infrastructure which is controlled by the infrastructure manager, the party concerned has the right to apply to the Communications Regulatory Authority with a request to resolve the dispute.

7. The Communications Regulatory Authority shall establish the procedure and conditions for sharing the electronic communications infrastructure and/or suitable purpose physical infrastructure in the rules for the installation and use of the electronic communications infrastructure.

8. The Communications Regulatory Authority shall provide infrastructure users with the possibility to receive information that is managed and/or processed electronically under proportionate, transparent, and non-discriminatory conditions from state or

municipal institutions, state or municipal bodies, state or municipal enterprises, and public establishments the owner whereof or at least one of the owners is the State or a municipality (hereinafter: ‘state or municipal institutions, bodies, enterprises, and public establishments’) on the existing electronic communications infrastructure and/or suitable purpose physical infrastructure. In the case the infrastructure users need information that is managed and/or processed not electronically by the state or municipal institutions, bodies, enterprises, and public establishments, the infrastructure users have the right to receive this information from infrastructure managers under proportionate, transparent, and non-discriminatory conditions, in accordance with the procedure laid down in item 2 of paragraph 9 of this Article, as well as in accordance with the procedure laid down by the rules for the installation and use of the electronic communications infrastructure. The infrastructure users have the right to inspect the existing electronic communications infrastructure and/or suitable purpose physical infrastructure on site in accordance with the procedure and conditions laid down by the rules for the installation and use of electronic communications infrastructure.

9. State or municipal institutions, state or municipal bodies, state or municipal enterprises, and public establishments the owner whereof or at least one of the owners is the State or a municipality managing and/or processing the information on the existing electronic communications infrastructure and/or suitable purpose physical infrastructure, shall:

1) give access to the Communications Regulatory Authority in accordance with the procedure laid down by the Government of the Republic of Lithuania to the information they manage and/or process electronically on the existing electronic communications infrastructure and/or suitable purpose physical infrastructure (type of infrastructure, place of installation, routing, filling, etc.); the Communications Regulatory Authority shall be given access to the updated information not later than two months from the date of receipt of the new information indicated in this clause in a state or municipal institution, body, enterprise, and public establishment; this time-limit may be extended for a period not longer than one month, if this is necessary for ensuring the reliability of the information furnished;

2) at the request of the infrastructure users to furnish them with information on the existing electronic communications infrastructure and/or suitable purpose physical infrastructure (type of infrastructure, place of its installation, routing, filling, etc.) that is managed and/or processed not electronically.

10. Paragraphs 8 and 9 of this Article shall not apply to the information the provision of which would endanger the safety and/or integrity of the electronic communications infrastructure and/or suitable purpose physical infrastructure, public safety and/or health. Refusal to furnish the infrastructure user with information specified in paragraph (paragraphs) 8 and/or 9 of this Article shall be reasoned and grounded.

11. Infrastructure users, on receipt of the information specified in paragraph (paragraphs) 8 and/or 9 of this Article, shall ensure the confidentiality of information, except for the information that may not be confidential under the procedure, in cases and conditions laid down by this Law.

12. Provisions of Article 39 of this Law shall be applied to undertakings having significant influence in the respective market to the extent that the right of access to the electronic communications infrastructure and/or suitable purpose physical infrastructure is not governed by obligations imposed on the undertakings having significant influence in the respective market and the rules, descriptions of the procedure, and/or terms establishing the conditions of fulfilment of the said obligations, approved by the Communications Regulatory Authority.

#### **Article 40. Easement to install electronic communications infrastructure**

1. Where a provider of public communications networks cannot realise the right to install electronic communications networks neither through installation sharing nor through infrastructure sharing, nor by any other means provided for in this Law, also in case of failure of negotiations with the owners of property which could be used for the installation of infrastructure which constitutes part of a public communications network, such a provider of public communications networks may apply to court for the granting of the right, where such an opportunity exists and where this does not impose an undue burden to the owner, to use state, municipal or private property for the installation of electronic communications infrastructure by establishing an easement on such property. The court must take a decision on the determination of an easement no later than six months from the day of an admission of an appeal. The rights, conditions and procedures concerning an easement may be amended in objectively justified cases and in proportionate manner. The intended changes shall be in an appropriate manner communicated to the interested parties and the opportunity shall be given to submit comments on the proposed changes within a reasonable period, which, except in exceptional circumstances, shall not be less than 28 days, unless the expected changes are

minor and do not alter the established legal regulatory substance and have been agreed with the interested parties. It shall be prohibited to restrict or revoke the easement before expiry of the period, except where justified and where the holder of the servitude receives adequate compensation for such a restriction or revocation.

2. State, municipal or private property shall be used at a reasonable price set by the court. If the property is owned by the State or municipality, relevant fees for the use of such property shall be paid to the state or municipal budget respectively in accordance with the procedure and conditions set out in legal acts.

3. Information about the procedure and conditions concerning easements to be applied according to this Article and other legal acts as well as information about the easements to install electronic communications infrastructure shall be submitted to the Communications Regulatory Authority. It shall make this information public in accordance with the terms and procedure set by this institution.

#### **Article 41. Protection of electronic communications infrastructure of public communications network**

1. The zone of protection of electronic communications infrastructure of public communications networks shall comprise a strip of land as defined in the Law on Land along the wire lines of public communications networks and around electronic communications infrastructure objects including any plants and structures contained in it. It shall be prohibited in this zone to construct structures, store equipment and materials, excavate, drill wells, conduct explosions and perform other works that may damage the electronic communications infrastructure without prior consent of the owners of electronic communications infrastructure.

2. The Government shall establish the dimensions for protection zones of electronic communications infrastructure of public communications networks. The Communications Regulatory Authority shall lay down the marking techniques procedure for protection zones of electronic communications infrastructure of public communications networks and procedure for carrying out works in these zones.

3. Infrastructure owners shall be responsible for the maintenance of electronic communications infrastructure of public networks.

#### **Article 42. Connection to electronic communications network**

Connection to electronic communications networks without the consent of an undertaking providing electronic communications networks and/or services shall be prohibited.

**Article 42<sup>1</sup>. Security and integrity of public communications networks and public electronic communications services**

1. Providers of public communications networks and/or public electronic communications services must implement appropriate technical and organizational measures necessary for security of their networks and/or services provided. These measures shall ensure the level of security adequate to the posed threat, and prevent security incidents or minimize their impact on public communications networks and public electronic communications services beneficiaries.

2. Public communications network providers must implement appropriate technical and organizational measures necessary to ensure the integrity of their networks provided, thus ensuring a continuous delivery of public electronic communication services on these networks.

3. The Communications Regulatory Authority may determine technical and organizational requirements for ensuring security and integrity of public communications networks and public electronic communications services.

4. The Communications Regulatory Authority seeking to ensure security and integrity of public communications networks and public electronic communications services, to prevent spread of security incidents, reduce the risk of damages incurred by providers of public communications networks and/or public electronic communications services due to security incidents, shall be entitled to give binding instructions and the deadline for implementing the instructions to the providers of public communications networks and/or public electronic communications services, including the right to require to perform an independent security audit and submit this audit results with the funds of public communications networks and/or public electronic communications service providers. Instructions of the Communications Regulatory Authority shall be reasoned, well-grounded and proportionate to the objective.

5. In the event of security or integrity breaches of a public communications network or part of it, public electronic communications services that had a significant impact on the operation of networks or services, provider of public communications networks and/or public electronic communication services shall immediately notify the

Communications Regulatory Authority in its prescribed manner and conditions. If necessary, the Communications Regulatory Authority shall notify about the security or integrity breach of public communications network or a part of it, or public electronic communications services, national regulatory authorities of other European Union Member States, the European Network and Information Security Agency, and the public.

6. The Communications Regulatory Authority shall collect information provided in accordance with paragraph 5 of this Article about communications given by public communications networks and/or public electronic communications services providers and the action performed and every year shall provide summarised information to the European Commission and the European Network and Information Security Agency.

## **CHAPTER SEVEN**

### **RADIO EQUIPMENT AND TELECOMMUNICATIONS TERMINAL EQUIPMENT. ELECTROMAGNETIC COMPATIBILITY**

#### **Article 43. Radio equipment and telecommunications terminal equipment**

Requirements applicable for radio equipment, the procedure and conditions for the placing on the market, beginning of operation and use of such equipment, assessment of conformity, and supervision shall be laid down in the Technical Regulations of Radio Equipment approved by the order of the director of the Communications Regulatory Authority. Obligations related to the provision of information on interface specifications, connection of telecommunications terminal equipment, also allocation of manufacturer's codes to manufacturers of non-standard telecommunication terminal equipment, the procedure and conditions for the use of these codes shall be set forth by orders of the director of the Communications Regulatory Authority.

#### **Article 44. Electromagnetic compatibility**

The conditions for applying electromagnetic compatibility requirements, the procedure and conditions for the placing on the market and use of equipment and devices, the requirements for equipment and devices, the requirements for their installation and use, the procedure and conditions of assessment, approval and monitoring of compliance with electromagnetic compatibility shall be laid down in the Technical Regulation on Electromagnetic Compatibility approved by the order of the director of the Communications Regulatory Authority.

#### **Article 45. Use of equipment and devices**

1. The rules for the use of industrial, medical and scientific equipment and devices, i.e. equipment and devices the operation of which generates and consumes radio wave energy and which are intended for industrial, medical, scientific, domestic and similar purposes, except for the purpose of electronic communications, shall be prepared and approved by the Communications Regulatory Authority.

2. The owner or user of equipment and/or devices shall allow authorized officials from the Communications Regulatory Authority to inspect equipment and/or devices, also to take equipment and/or devices away.

3. In the cases specified in Article 78 of this Law, the owner and/or user of equipment and/or devices shall carry out instructions issued by the Government or an institution authorised by it.

#### **Article 46. Radio monitoring**

1. The Communications Regulatory Authority shall control compliance with the requirements of the legal acts regulating radio communication and shall carry out radio monitoring. By means of radio monitoring, control and analysis shall be carried out to establish to what extent the range of radio frequencies is occupied by radiation of radio stations, whether the radiation spectra and radio disturbance levels are in conformity with the requirements of legal acts.

2. The protection of fixed radio monitoring stations of the Communications Regulatory Authority against strong electromagnetic fields generated by radio communication stations operating in their environment shall be implemented in accordance with the procedure and conditions set forth by the Communications Regulatory Authority.

3. The information obtained during radio monitoring shall be used only in the activities of the Communications Regulatory Authority which are regulated by this Law.

#### **Article 47. Elimination of radio interference**

1. Any radio interference must be eliminated by the owner or user of equipment and/or devices which causes such interference. If interference is produced in a radio receiver or reception device due to changes in (deterioration of) its technical parameters or improper use, the source of such interference (radio disturbances) must be eliminated by

the owner or user of the receiver or device. If radio interference is caused to other legitimately operating equipment and/or device, the owner or user of the equipment and/or devices which produce it shall, on instruction from the Communications Regulatory Authority, eliminate its source (radio disturbances) or reduce its level. The procedure for eliminating or reducing radio interference, where radiation parameters of the equipment producing and receiving it conform to the requirements of legal acts, shall be established by the Communications Regulatory Authority.

2. When conducting radio monitoring and investigation of (search for) radio interference, providers of electronic communications networks and/or services as well as other persons shall submit to the Communications Regulatory Authority relevant information and ensure unrestricted access to possible sources of radio interference.

## **CHAPTER EIGHT**

### **MANAGEMENT OF ELECTRONIC COMMUNICATIONS RESOURCES**

#### **Article 48. Basis for the management of electronic communications resources**

1. The Communications Regulatory Authority shall, in accordance with the procedure and conditions set out in this Law, manage electronic communications resources. Radio frequencies (channels), telephone numbers and other electronic communications resources shall be managed according to the provisions of this Law.

2. Radio frequencies (channels) shall be managed according to the National Radio Frequency Allocation Table, the Plan for Using Radio Frequencies (Channels) approved by the Communications Regulatory Authority in conformity with the National Radio Frequency Allocation Table, and radio communication development plans, as well as relevant treaties and/or international agreements, including the Regulations on Radio Communication.

3. Telephone numbers used in public communications networks shall be managed according to the National Telephone Numbering Plan approved by the Communications Regulatory Authority. The Communications Regulatory Authority shall approve the procedure and conditions for implementing the National Telephone Numbering Plan.

4. The Communications Regulatory Authority shall establish the rules for management of other electronic communications resources.

5. State institutions shall promote the harmonisation of management and use of electronic communications across the European Union.



**Article 49. Assignment and use of radio frequencies (channels) to  
broadcasting and transmission of radio and television  
programmes**

1. Radio frequencies (channels) shall be assigned to broadcast and transmit radio and television programmes and shall be used according to the plan for the assignment of radio frequencies for broadcasting and transmission of radio and television programmes approved by the Communications Regulatory Authority and the Radio and Television Commission of Lithuania. Radio frequencies (channels), which are designated in the plan for the assignment of radio frequencies for broadcasting and transmission of radio and television programmes for analogue terrestrial radio and/or television, shall be assigned to broadcasters and/or re-broadcasters possessing a licence issued by the Radio and Television Commission of Lithuania granting the right to establish and operate their own electronic communications networks as well as to transmission providers. Other radio frequencies (channels), which are designated in the respective plan for radio and/or television communication expansion, shall be assigned to transmission providers. The general procedure and conditions for using and assigning radio frequencies (channels) set out in this Law shall be applied with respect to the assignment and use of radio frequencies (channels) to broadcasting and transmission of radio and television programmes to the extent that this Article does not establish otherwise.

2. The Communications Regulatory Authority shall submit to the Radio and Television Commission of Lithuania information about coordinated radio frequencies (channels), which according to the plan for the assignment of radio frequencies for broadcasting and transmission of radio and television programmes are intended to be assigned to broadcasters and/or re-broadcasters possessing Commission-issued licences granting the right to establish and operate their own electronic communications networks; this information shall be submitted together with information about the basic conditions of operating electronic communications networks required to issue broadcasting and/or re-broadcasting licences. The Communications Regulatory Authority, having assigned radio frequencies (channels) to transmission providers, shall submit to the Radio and Television Commission of Lithuania information about these radio frequencies (channels) together with information about the basic conditions of operating electronic communications networks required to issue broadcasting and/or re-broadcasting licences. After having received the above mentioned information, the Radio and Television Commission of

Lithuania shall issue broadcasting and/or re-broadcasting licences in accordance with the procedure and conditions set out in the Law on Provision of Information to the Public.

3. The basic conditions of operating electronic communications networks specified together with radio frequencies (channels) in a broadcasting and/or re-broadcasting licence issued by the Radio and Television Commission of Lithuania shall comply with the basic operating conditions of radio frequencies (channels) and electronic communications networks intended for broadcasting and/or re-broadcasting radio and television programmes presented by the Communications Regulatory Authority. The actual transmission provider shall be additionally specified in a Commission-issued broadcasting and/or re-broadcasting licence granting the right to use the services of a transmission provider. Where the radio frequency (channel) is changed and replaced by another radio frequency (channel) or where the basic conditions of operating electronic communications networks are modified (i.e. the basic conditions of using radio frequencies (channels) are modified), the Radio and Television Commission of Lithuania shall change the conditions of a broadcasting and/or re-broadcasting licence accordingly.

4. The Communications Regulatory Authority shall assign radio frequencies (channels) which, according to the plan for the assignment of radio frequencies for broadcasting and transmission of radio and television programmes, are intended to be assigned to broadcasters and/or re-broadcasters possessing licences to establish and operate their own electronic communications networks issued by the Radio and Television Commission of Lithuania, without applying the provisions of Articles 51-56 of this Law, with the exception of Article 51(4). The Communications Regulatory Authority shall lay down the rules for assigning such radio frequencies (channels).

5. A broadcaster or re-broadcaster shall forfeit the right to use the radio frequency (channel) assigned under paragraph 4 of this Article where the licence is revoked. The Radio and Television Commission of Lithuania shall inform the Communications Regulatory Authority about the revocation of licence.

6. The Communications Regulatory Authority, after coordination with the Radio and Television Commission of Lithuania, shall have the right to change the assigned radio frequency (channel) at the request of the frequency (channel) user. The Communications Regulatory Authority, after coordination with the Radio and Television Commission of Lithuania, shall have the right to revoke an authorisation to use a radio frequency (channel) at the request of the frequency (channel) user.

7. The Communications Regulatory Authority shall not apply the provisions of Article 58(7) to the radio frequencies (channels) assigned to broadcast (re-broadcast) radio and/or television programmes.

8. The Communications Regulatory Authority shall have the right to change the radio frequency (channel) and replace it by another radio frequency (channel) used for the same purpose after giving a six-month advance communication to the radio frequency (channel) user or to cancel the assigned radio frequency (channel) after giving a twelve-month advance communication to the radio frequency (channel) user if:

1) this is required under international obligations or the European Union legal acts;

2) the National Radio Frequency Allocation Table is modified and subsequently the radio frequency band designation is modified due to international obligations or European Union legal acts, including recommendations. Where the assignment of a radio frequency is changed or revoked before the term of radio frequency (channel) use established by the Communications Regulatory Authority expires, the decision shall be coordinated with the Radio and Television Commission of Lithuania;

3) the radio frequency (channel) is used inefficiently or ineffectively based on the criteria specified in the plan for the assignment of radio frequencies for broadcasting and transmission of radio and television programmes;

4) the plan for the assignment of radio frequencies for broadcasting and transmission of radio and television programmes is amended.

9. The Communications Regulatory Authority, after having decided in accordance with the procedure and conditions set out in this Law to suspend the right to use radio channels (frequencies) assigned under paragraph 4 of this Article, shall inform the Radio and Television Commission of Lithuania thereof. The Communications Regulatory Authority, after having decided in accordance with the procedure and conditions set out in this Law to revoke the right to use radio channels (frequencies) assigned under paragraph 4 of this Article, shall apply to the Radio and Television Commission of Lithuania for the suspension or revocation of the relevant licence. In this case, the Radio and Television Commission of Lithuania may revoke the licence in accordance with the procedure established in the Law on Provision of Public Information.

10. The Communications Regulatory Authority shall, when issuing the sender a permission to use the radio frequency (channel) in accordance with the plan for the assignment of radio frequencies for radio and television broadcasting and transmission, according to the radio frequency (channel) and technology and taking in consideration

technical standards applied in Lithuania in accordance with the legal acts, establish to the sender a required minimum number of radio and/or television programmes and/or minimum flow transmitted through digital radio channel, which consists of radio and/or television program. Transmission providers must transmit, in accordance with the procedure and conditions set out in licences and agreements concluded with broadcasters and/or re-broadcasters, a required minimum number of radio and/or television programmes and/or minimum flow transmitted through digital radio channel, which consists of radio and/or television programs set by the Communications Regulatory Authority when transmitting the programmes of broadcasters and/or re-broadcasters possessing licences issued by the Radio and Television Commission of Lithuania and granting the right to use the services of a specified transmission provider or when broadcasting and/or re-broadcasting radio and/or television programmes themselves, after having received the relevant broadcasting and/or re-broadcasting licences in accordance with the procedure established in the Law on Provision of Information to the Public. Transmission providers may, without prejudice to the rules for assigning and using radio frequencies (channels) and the conditions of the relevant authorisation to use radio frequencies (channels), use radio frequencies (channels) to provide additional electronic communications services (including the transmission, broadcasting and/or re-broadcasting of a larger number of radio and/or television programmes subject to transmission, broadcasting and/or re-broadcasting licences issued by the Radio and Television Commission of Lithuania), however only to the extent and within the scope that it does not interfere with the transmission of a minimum number of radio and/or television programmes and minimum flow transmitted through digital radio channel, which consists of radio and/or television programs, where such number and flow are set by the Communications Regulatory Authority.

11. When issuing licences referred to in paragraphs 4 and 10 of this Article, the Radio and Television Commission of Lithuania shall ensure the right of the National Radio and Television of Lithuania to broadcast the number of radio and television programmes specified in the Law on the National Radio and Television of Lithuania. Instead of a licence, the National Radio and Television of Lithuania shall be issued an authorisation granting the rights referred to in paragraphs 4 and 10 respectively.

## **Article 50. Basis for the use and assignment of electronic communications resources**

1. Electronic communications resources shall be assigned and used in accordance with the procedure and conditions set out in this Law and the rules for the assignment and use of electronic communications resources approved by the Communications Regulatory Authority.

2. Electronic communications resources may be used:

1) without an individual authorisation where the Communications Regulatory Authority establishes that certain electronic communications resources may be used without an individual authorisation;

2) in order to ensure the effective use of electronic communication resources, quality of electronic communications service and to avoid harmful interference, subject to the Communications Regulatory Authority' authorisation to use electronic communications resources.

3. The Communications Regulatory Authority, in conformity with the international obligations of the Republic of Lithuania, Radio Regulations, National Radio Frequency Allocation Table, plan for the use of radio frequencies (channels) and radio communication development plans, shall assign radio frequencies (channels) and other electronic communications resources necessary for activities related to national defence, national security, maintenance of public order, public emergency services, guarding of state borders, civil aviation, rail traffic safety, stable and reliable operation of the national energy system and other non-commercial functions of the State (including foreign states) and its institutions.

4. –The Communications Regulatory Authority shall perform the functions referred to in paragraph 3 of this Article without applying the provisions of Article 51-56 of this Law. The Communications Regulatory Authority shall establish the rules for the assignment of electronic communications resources.

5. The duration of the right to use electronic communications resources shall be determined by the Communications Regulatory Authority. This period may be extended in cases and according to the terms and conditions established in the rules for assignment and usage of electronic communication resources and subject to Article 51(6) of this Law.

6. Where the use of radio frequencies (channels) has been harmonised, agreement has been reached on the conditions and procedure of their use, and undertakings to be assigned radio frequencies (channels) have been selected according to treaties and/or international agreements as well as European Union rules, the Communications Regulatory Authority shall assign radio frequencies (channels) subject to the relevant

rules. If all the conditions of radio frequency (channel) use established in the Republic of Lithuania have been fulfilled in the course of a general selection procedure, no additional conditions, criteria or procedures shall be established for the use of radio frequencies (channels), which might restrict, modify or delay the correct implementation of the general radio frequency (channel) assignment procedure.

7. Persons requesting to be assigned electronic communications resources and/or persons to whom such resources are assigned as well as persons entitled to use electronic communications resources shall pay to the Communications Regulatory Authority administrative charges for the services provided and work performed by it as defined in Article 6(3) of this Law, including charges for supervision of use of resources.

### **Article 51. Assignment of electronic communications resources**

1. Where the Communications Regulatory Authority has not established that certain electronic communications resources may be used without an individual authorisation, a person shall, prior to the use of such resources, submit to the Communications Regulatory Authority an application in the prescribed form for the assignment of electronic communications resources in accordance with the procedure and conditions set out in the rules for the assignment and use of electronic communications resources.

2. Where an undertaking submits an application for the assignment of electronic communications resources after its notification of the start of activity has been submitted to the Communications Regulatory Authority, the undertaking may, at the time of submitting the application, only confirm that the information and documents submitted earlier to the Communications Regulatory Authority have not changed and shall not need to re-submit the same information and documents. Should any changes occur in the activity of the undertaking after the date of submission of notification of the start of activity subject to the legal acts of the Communications Regulatory Authority, the undertaking must update the documents and information at the time of application for assignment of electronic communications resources.

3. A person requesting radio frequencies (channels) shall submit to the Communications Regulatory Authority information about the possibilities to fulfil the obligations relating to the use of radio frequencies (channels). The Communications Regulatory Authority shall set the scope of the information to be submitted and the procedure for the submission thereof. The Communications Regulatory Authority shall

have the right to refuse to assign radio frequencies (channels) to a person who has failed to submit the requested information or who has submitted information that is not in conformity with the requirements set by the Communications Regulatory Authority.

4. A person may start using electronic communications resources as of the date of issue of the authorisation, unless otherwise stated in the authorisation. An authorisation to use electronic communications resources shall be issued to persons who have been assigned electronic communications resources in accordance with the procedure and conditions set forth by the Communications Regulatory Authority. State fee shall be levied for the issuance of an authorization to use electronic communications resources.

5. The number of authorisations to use electronic communications resources shall be unlimited, except for the cases where restrictions are necessary to ensure effective use of radio frequencies (channels) or where other specific electronic communications resources are of exceptional economic value and/or a shortage of electronic communications resources is unavoidable, and this is justified by the principle of proportionality.

6. When adopting a decision to restrict the number of authorisations to use electronic communications resources, the Communications Regulatory Authority shall:

1) take adequate account of the necessity to maximise benefits to users and to encourage competition;

2) provide all interested parties, including users and consumers, with a possibility to express their opinion on any restriction within the scope and in accordance with the procedure and conditions set out in respect of public consultations defined in Article 11(1) of this Law;

3) publish a decision to restrict the number of authorisations to use electronic communications resources specifying the reasons for such restriction;

4) after having established the relevant procedure, publish an invitation to submit applications for the assignment of electronic communications resources;

5) periodically or upon receipt of a reasoned request by interested persons, review the restrictions.

7. The Communications Regulatory Authority, after having established that it can assign electronic communications resources that are subject to a restricted number of authorisations, shall publish its conclusion and an invitation to submit applications for the assignment of electronic communications resources. The Communications Regulatory

Authority shall publish information about the assignment of electronic communications resources in accordance with the procedure and conditions set forth by it.

8. The Communications Regulatory Authority shall publish information about the applications submitted by persons for the assignment of electronic communications resources when the number of authorisations to use such resources is restricted. The rules for the publication of such information shall be established by the Communications Regulatory Authority.

9. The Communications Regulatory Authority may reserve specific electronic communications resources to ensure proper development of electronic communications networks and/or services and technologies.

10. A decision to assign electronic communications resources shall be taken, communicated to the applicant and made public as soon as possible after the receipt of the complete application conforming to the established requirements (complete information and documents) by the Communications Regulatory Authority, within 21 days in the case of telephone numbers and within 42 days in the case of radio frequencies (channels). Time limits specified in this paragraph shall be applied without prejudice to the terms set out in treaties and/or international agreements.

11. Should the Communications Regulatory Authority decide that the rights of use for telephone numbers shall be granted by tender or auction, the maximum time limit of 21 days set in paragraph 10 above shall be extended by another 21 days. Should the Communications Regulatory Authority decide to assign radio frequencies (channels) by tender or auction, the maximum time limit of 42 days set in paragraph 10 above shall be extended by a period which it is necessary to ensure fair, reasonable, open and transparent procedures to all interested parties, however, in any case, no longer than by eight months. This time limit shall be applied without prejudice to any time limits set in treaties and/or international agreements.

12. Fees for the right to use electronic communications resources to be paid by successful tenderers or auction winners shall be paid to the state budget. Where a successful tenderer or auction winner delays to pay the fee or part of the fee, the Communications Regulatory Authority shall have the right to adopt a decision imposing an obligation on the successful tenderer or auction winner to make due payments and to set the time limit for making such payments. The decision adopted by the Communications Regulatory Authority shall be a document subject to execution; if the decision is not executed, it shall be forwarded for execution in accordance with the



procedure established by the Code of Civil Procedure. A decision may be presented for execution not later than within three years after its adoption.

**Article 52. Procedures of assigning electronic communications resources**

1. The Communications Regulatory Authority shall assign electronic communications resources:

- 1) directly to the person requesting them;
- 2) by tender;
- 3) by auction.

2. Electronic communications resources shall be assigned through open, objective, transparent, non-discriminatory and proportionate procedures set out in Articles 53-56 of this Law.

**Article 53. Assignment of electronic communications resources directly to the requesting person**

1. The Communications Regulatory Authority shall have the right to assign electronic communications resources directly to the person requesting them, provided that at least one of the following conditions exists:

- 1) the Communications Regulatory Authority does not limit the number of authorisations to use the requested electronic communications resources;
- 2) after the publication by the Communications Regulatory Authority about the receipt of an application for the assignment of electronic communications resources, no other person expresses a wish, within the time limit set by the Communications Regulatory Authority, to use the same resources, or there are sufficient resources to be assigned to all persons having expressed such wish.

2. Should the Communications Regulatory Authority receive applications for the assignment of electronic communications resources from several persons at the same time and the resources may not be assigned at the same time to all of the persons requesting them, such resources shall be assigned by public tender or by auction. Concurrent requests shall be considered requests that are submitted within the time limit established by the Communications Regulatory Authority calculated from the date of public announcement about the receipt of the first application. The Communications Regulatory Authority must announce about the selected way of assignment of electronic communications resources

and allow not less than 28 days following the announcement for submission of applications to participate in a public tender or auction.

#### **Article 54. Assignment of electronic communications resources by tender**

A tendering procedure for the assignment of electronic communications resources shall be organised in accordance with the procedure provided for in the rules for the assignment of electronic communications resources and by public tender conditions approved by the Communications Regulatory Authority as well as pursuant to the requirements of this Law. Tender conditions shall specify qualification requirements for tenderers, define the market in which electronic communications resources will be used, and set forth the conditions of use of electronic communications resources. Tender conditions shall specify the criteria for selecting successful tenderers. Such criteria shall be based on special knowledge and effective performance, appropriate schemes of operations in terms of the provision of electronic communications networks and/or services, adequate service prices, time limits for the implementation of services in the market, amount of investments and promotion of effective competition.

#### **Article 55. Assignment of electronic communications resources by auction**

1. The rules of auction shall be approved by the Communications Regulatory Authority.

2. The rules of auction shall specify qualification requirements for tenderers, define the market in which electronic communications resources will be used, the conditions of use of electronic communications resources and the minimum amount of electronic communications resources to be bought by a participant in the auction.

#### **Article 56. Refusal to assign electronic communications resources**

1. The Communications Regulatory Authority may refuse to assign electronic communications resources if:

1) no spare electronic communications resources are available. This includes those cases where the use of requested electronic communications resources would impede the use of other electronic communications resources already in use;

2) the applicant's activities do not conform to the requirements of this Law, tender or auction requirements, the purpose of electronic communications resources or the

applicant has been using the electronic communications resources available to it inefficiently or ineffectively;

3) the applicant has failed to submit the documents or information requested;

4) the application does not conform to the requirements of legal acts;

5) the information or documents submitted by the applicant are inaccurate or incorrect;

6) the applicant was not successful in a tendering or auction procedure where such a procedure was organised for granting the right to use electronic communications resources;

7) the applicant has failed to pay the relevant fee or other charges within the set time limit;

8) the applicant has failed to pay the relevant state fee.

2. Prior to adoption of a decision refusing to assign electronic communications resources to a person, the Communications Regulatory Authority may set a time limit for the person to rectify the situation hindering the Communications Regulatory Authority from issuing a decision. The Communications Regulatory Authority shall inform the person about such a decision in writing specifying the deficiencies and the time limit for the elimination thereof. This paragraph shall not apply if a tendering or auction procedure was held for granting the right to use electronic communications resources.

#### **Article 57. Transfer of right to use electronic communications resources**

A person has the right to transfer to another person in accordance with the terms and procedure set by the Communications Regulatory Authority the right, including the temporary transfer of the right to use electronic communications resources, to use electronic communications resources assigned for him, except for the right to use radio frequencies (channels) the purpose of which is radio and/or television programs broadcasting (retransmission).

#### **Article 58. Use of electronic communications resources**

1. Conditions set in the rules for the assignment and use of electronic communication resources and authorisations to use electronic communications resources must be non-discriminatory, transparent and proportionate. The terms and conditions prescribed by the legal acts regulating the general terms and conditions for engaging in electronic communications activities shall not be repeated in the rules for the assignment

and use of electronic communications resources and in authorisations to use electronic communications resources.

2. The conditions set out in the rules for the assignment and use of radio frequencies (channels) and in authorisations to use radio frequencies (channels) may only be related to:

1) instructions on the purpose (service, authority, or technology type), for which radio frequencies (channels) are assigned given, as well as on the coverage and quality requirements;

2) effective and efficient use of radio frequencies (channels);

3) technical and operational conditions necessary for the avoidance of harmful interference and for the limitation of exposure of the general public to electromagnetic fields, where such conditions are different from those included in the general terms and conditions for engaging in electronic communications activities set forth by the Communications Regulatory Authority;

4) depending on the purpose of radio frequencies (channels), effective and efficient use of radio frequencies (channels) and return on investments within the set maximum time limit for the right to use radio frequencies (channels);

5) transfer of the right to use radio frequencies (channels) at the initiative of the right holder and conditions for such transfer. The Communications Regulatory Authority shall specify such conditions in authorisations to use radio frequencies (channels);

6) fees for the supervision of use of radio frequencies (channels) and fees and payments to the state budget in accordance with the procedure established by legal acts;

7) any commitments made by a person in the course of a tendering or auction procedure;

8) obligations under relevant treaties and/or international agreements relating to the use of radio (frequencies) channels.

9) requirements relating to experimental use of radio frequencies (channels).

3. The conditions set out in the rules for the assignment and use of telephone numbers and in authorisations to use of telephone numbers may only be related to:

1) instruction on the purpose (of the service), for which telephone numbers are used, including the appropriate requirements for service provision, as well as tariff establishment principles and maximum prices that can be applied to a specific telephone number range;

2) effective and efficient use of telephone numbers;

- 3) subscriber's right to retain the telephone number;
- 4) obligation to provide directory enquiry services;
- 5) maximum time limit for the use of telephone numbers;

6) transfer of the right to use telephone numbers at the initiative of the right holder and conditions for such transfer. The Communications Regulatory Authority shall specify such conditions in authorisations to use telephone numbers;

7) fees for the supervision of use of telephone number and fees and payments payable to the state budget in accordance with the procedure established by legal acts;

8) any commitments which a person has made in the course of a tendering or auction procedure;

9) obligations under relevant treaties and/or international agreements relating to the use of telephone numbers.

4. Persons shall use electronic communications resources effectively and efficiently. The criteria for effective and efficient use of electronic communications resources shall be laid down in the rules for the assignment and use of electronic resources and in authorisations to use electronic communications resources.

5. Having established that users of radio frequencies (channels) do not comply with conditions for the use of radio frequencies (channels) assigned to them, the Communications Regulatory Authority, in order to ensure effective and efficient use of radio frequencies (channels) and effective competition in the electronic communications market as well as the continuity of service to beneficiaries of electronic communications services, shall have the right to authorise the users of radio frequencies (channels) to transfer their right to use radio frequencies (channels) in cases and according to the terms and conditions established in the rules for the assignment and use of radio frequencies (channels). The decision of the Communications Regulatory Authority to authorise the users to transfer their right to use radio frequencies (channels) must be motivated, based on the circumstances specified in this paragraph and justified by the regulatory principles of electronic communications activities.

6. When the right to use radio frequencies (channels) is assigned for 10 or more years and the opportunity to transfer the right to use radio frequencies (channels) to another person, including temporary transfer of the right to use radio frequencies (channels), is not provided, the Communications Regulatory Authority shall, upon receipt of an application from the user of radio frequencies (channels) and having identified that terms and conditions for the assignment of radio frequencies (channels)

have changed, respectively modify the conditions for the use of radio frequencies (channels), allow to transfer the right to use radio frequencies (channels) to another person, including temporary transfer of the right to use radio frequencies (channels), or revoke an authorisation to use a radio frequency (channel), if it determines that the appropriate radio frequencies (channels) may be used without an additional authorisation. When implementing the provisions of this paragraph, the Communications Regulatory Authority shall apply *mutatis mutandis* the provisions of Article 59 of this Law.

7. The Communications Regulatory Authority shall have the right to replace the assigned electronic communications resources with other resources of the same purpose giving a six-month communication to electronic communications resource users or to revoke an authorisation to use electronic communications resources giving a twelve-month communication to electronic communications resource users, provided that this is required by international obligations or European Union legal acts, if the purpose of electronic communications resources is changed or the resources of electronic communications are used inefficiently or ineffectively. The Communications Regulatory Authority shall have the right to change the electronic communications resources for the other resources of the same purpose or revoke the authorization to use electronic communications resources without complying with the conditions specified in this paragraph, if the user of electronic communications resources requests so or he agrees on that. When implementing the provisions of this paragraph, the Communications Regulatory Authority shall apply *mutatis mutandis* the provisions of Article 59 of this Law. Upon withdrawal of the authorization by the Communications Regulatory Authority to use radio frequency (channel), if international obligations or the European Union legislation requires so, the purpose of electronic communication resources in changed, the user of radio frequency (channel) shall be compensated for the part payment in proportion to the shortened term for the use of radio frequency (channel), except for the state fee paid for the authorization of electronic communications resources.

8. An undertaking that forfeits the right to engage in electronic communications activities shall also forfeit the right to use the relevant electronic communications resources.

#### **Article 59. Change of conditions for the use of electronic communications resources**

1. Rights, terms and conditions for the use of electronic communications resources may be changed in objectively justified cases and proportionate manner, taking into account the specific conditions applicable to the transfer of the right to use radio frequencies (channels). The intended changes shall be in an appropriate manner communicated to the interested parties, including beneficiaries and users of electronic communications services, and the opportunity shall be given to submit comments on the proposed changes within a reasonable period, which, except in exceptional circumstances, shall not be less than 28 days, unless the expected changes are minor and do not alter the established legal regulatory substance and have been agreed with users of electronic communications resources. Where amendments of the conditions for usage of radio frequencies (channels) on the basis of criteria set out in the plan for the assignment of radio frequencies for broadcasting and transmission of radio and television programmes result in a change of the coverage territory of radio and/or television programmes broadcast and/or re-broadcast under a licence issued by the Radio and Television Commission of Lithuania, such amendments shall be coordinated with this Commission.

2. When making decision to extend the term of the right to use electronic communications resources under the conditions other than those established in authorisations to use electronic communications resources, the Communications Regulatory Authority shall apply *mutatis mutandis* the provisions of Article 51(6).

#### **Article 60. Activities of radio amateurs and other radio station users**

The procedure for granting the right to engage in radio amateur activities and any other activity of radio station users, the conditions for such activity as well as the procedure and conditions for issuing authorisations to radio amateurs and other radio station users shall be set forth by the Communications Regulatory Authority.

### **CHAPTER NINE**

#### **MANAGEMENT AND PRIVACY PROTECTION OF DATA GENERATED OR PROCESSED WHEN PROVIDING PUBLIC ELECTRONIC COMMUNICATIONS SERVICES**

#### **Article 61. Confidentiality of communications**

1. It shall be prohibited without the agreement of actual users of electronic communications services, to listen, record, store or use other kinds of interception of the content of messages and traffic data or access to them, except when legally authorized to do so under this Articles 66 and 77 of this Law. Without the agreement of the actual users of electronic communications services it shall be prohibited to disclose the content of messages and/or related data traffic or to create conditions to access such information transmitted by electronic communications networks, except for the cases established by the law.

2. Provisions of paragraph 1 of this Article shall not prevent temporary saving of the transmitted messages without breaching the principle of confidentiality, if it is necessary for providing services (for example, voice mail, electronic mail, etc.). It also does not apply to recording of information and the related traffic data when carried out by a legitimate business practice, the aim of which is to present evidence of a commercial transaction, performance or other business transaction, which, in accordance with the legal acts, may result in legal consequences. Before starting recording, the actual users of electronic communications services shall be informed about such recording and its purpose. Recorded message content and related traffic data may be stored for a period of time not longer than the period during which the transaction can be lawfully challenged.

3. Undertakings providing electronic communications networks and/or services, when implementing paragraph 1 of this Article, shall take appropriate organizational and technical measures. The State Data Protection Inspectorate shall exercise control of undertakings providing electronic communications networks and/or services in respect of their compliance with the requirements of paragraph 1 of this Article concerning confidentiality of information. Undertakings providing electronic communications networks and/or services shall create conditions for the State Data Protection Inspectorate to exercise the control provided for in this paragraph in accordance with the procedure established by the Government.

4. It shall be allowed to store information or access information already stored in the terminal equipment of the subscriber or actual user of electronic communications services on condition that the subscriber or actual user of electronic communications services who in accordance with the Law on Personal Data Protection gets acquainted with clear and comprehensive information, including information about management purposes, gives his consent. These provision shall not prevent any technical storage or use of data the sole purpose of which is transferring it through electronic



communications network or, when necessary, providing information society services that are outsourced by the subscriber or actual user of electronic communications services.

5. The confidentiality of radio communication shall not be breached where a communication has been received as radio disturbances and this is reported to the Communications Regulatory Authority for identification purposes. Radio monitoring conducted by the Communications Regulatory Authority shall not be considered a breach of confidentiality of radio communication. The employees of the Communications Regulatory Authority shall be prohibited from disclosing, disseminating or using the content of non-public radio communications received and reporting about them.

## **Article 62. Security of data processing**

1. The provider of public electronic communications services must implement appropriate technical and organisational measures to safeguard security of its services, if necessary in conjunction with providers of public communications networks with respect to network security. These measures must comply with the requirements set in the Law on Personal Data Protection in order to ensure the level of security adequate to the posed threat, and to ensure that:

1) personal data may be accessed by personnel authorised by with the provider of public communications networks and/or public electronic communications services for legitimate purposes only;

2) personal data is protected against accidental or unlawful destruction, accidental loss or alteration and unlawful storage, processing, access or disclosure, as well as against any other unlawful processing;

3) personal data processing policy is implemented in the area of personal data processing.

2. The State Data Protection Inspectorate shall prepare guidance on the level of security achieved by the measures specified in paragraph 1 of this Article and make them public on its website.

3. In case of a particular risk of a breach of the security of the electronic communications network, the provider of public communications network and/or public electronic communications services must inform subscribers or registered users of electronic communications services about such threat and, where the risk is not eliminated by the scope of the measures taken by the service provider, also inform the subscribers or

registered users of electronic communications services of any possible security measures and indicate likely costs involved.

4. In case of personal data security breach, provider of public communications networks and/or public electronic communications services must immediately report the breach to the State Data Protection Inspectorate. In the case when personal data security breach is likely to have a negative impact on privacy or data security of the subscriber or registered user of electronic communications services or another person, provider of public communications networks and/or public electronic communications services must also notify the subscriber or registered user of electronic communications services or any other person, except in cases where provider of public communications networks and/or public electronic communications services demonstrates to the State Data Protection Inspectorate that he has applied appropriate technical measures to the personal data affected by the security breach. These measures are to ensure that unauthorized persons cannot access personal data.

5. Despite the obligation for the provider of public communications networks and/or public electronic communications services to notify the subscriber or registered user of electronic communication services or other person about the personal data security breach specified in paragraph 4 of this Article, the State Data Protection Inspectorate, having assessed the negative effect of personal data security breach, may oblige the provider of public communications networks and/or public electronic communications services to notify the subscriber or registered user of electronic communications services or another person thereof, if the provider of public communications networks and/or public electronic communications services has not done this yet.

6. In the notification specified in paragraph 4 of this Law the provider of public communications networks and/or public electronic communications services shall describe the nature of personal data breach and provide contact details, where more information can be obtained and indicates the recommended measures to reduce the negative effect of personal data breach. In the report to the State Data Protection Inspectorate the consequences of the personal data security breach and the measures proposed or taken by the provider of public communications networks and/or public electronic communications services in order to detect the personal data protection breach must be indicated.

7. Notifications specified in paragraph 4 of this Article must be provided in accordance with Regulation (EU) No. 611/2013.

8. Providers of public communications networks and/or public electronic communications services shall record cases of personal data violations, and collect information about the causes of such violations, their effects and the measures taken, and any other kind of information that would allow to verify the compliance with the provisions of paragraphs 4, 5 and 6 of this Article.

9. The State Data Protection Inspectorate in accordance with terms and conditions specified in the laws and regulations shall verify the following:

- 1) how providers of public communications networks and/or public electronic communications services implement the measures specified in paragraph 1 of this Article;
- 2) whether providers of public communications networks and/or public electronic communications services properly carry out their duty to notify about the personal data security violations specified in paragraphs 4, 5 and 6 of this Article.

#### **Article 63. Automatic call forwarding**

1. Providers of public electronic communications services shall ensure that any subscriber or registered user of electronic communications service has the possibility, free of charge and by simple means, of stopping automatic call forwarding by a third party to the terminal equipment of the subscriber or registered user of electronic communications services.

2. Repealed as of 1 August 2011.

#### **Article 64. Presentation of calling and connected line identification**

1. Where presentation of calling line identification is offered, the actual calling user of electronic communications services must have the possibility, free of charge and using a simple means, of preventing the presentation of the calling line identification on a per-call basis. The calling subscriber must have such possibility on any communication line basis.

2. Where presentation of calling line identification is offered, the called subscriber must have the possibility, free of charge and using a simple means, of preventing the presentation of the calling line identification of incoming calls.

3. Where presentation of connected line identification is offered and where the calling line identification is presented prior to the calling being established, the called subscriber must have the possibility, free of charge and using a simple means, of rejecting

incoming calls where the actual calling user of electronic communications services or subscriber has exercised the right referred to in paragraph 1 above.

4. Where presentation of calling line identification is offered, the called subscriber must have the possibility, free of charge and using a simple means, of preventing the presentation of the connected line identification to the calling user of electronic communications services.

5. Where presentation of calling and/or connected line identification is offered, providers of public electronic communications services must inform the public thereof and of the possibilities set out in paragraphs 1, 2, 3 and 4 of this Article.

6. The Government shall lay down the rules pursuant to which providers of public electronic communications services and/or public communications networks shall not prohibit the presentation of calling line identification. This may be allowed upon application of a subscriber requesting the tracing of malicious or nuisance calls.

7. Providers of public communications network and public electronic communications services shall not prohibit the calling line identification to institutions serving emergency calls that the institutions could respond to the calls of a subscriber or actual user of electronic communications services and respond appropriately. Provisions of this paragraph shall be implemented in accordance with the terms and procedure specified in Article 34(10).

8. Repealed as of 1 August 2011.

#### **Article 65. Data categories**

1. Providers of public communications networks and/or public electronic communications services may generate, store and manage only those personal, traffic and related data of the subscribers and registered users of electronic communications services which are necessary to identify the subscribers and users of the services, to provide services, to manage accounting and settlements. This provision shall not be applicable to data categories provided for in paragraph 2 of this Article.

2. In order to ensure that data are available for the purposes of investigation, detection and prosecution of criminal offences of serious and particularly serious crimes, as defined by the Criminal Code of the Republic of Lithuania, providers of public communications networks and/or public electronic communications services must keep and without payment provide to the competent institutions data generated or processed by them as specified in paragraph 1 of the Annex to this Law.

## **Article 66. Data processing**

1. Providers of public electronic communications services shall notify the State Data Protection Inspectorate about their generated and processed data in accordance with the procedure established by the Government.

2. When handling data specified in paragraph 1 of this Article and/or prior to receiving the consent specified in Article 68(1) and Article 69(1) of this Law, the provider of public communications network and/or public electronic communications services must inform the subscribers or registered users of electronic communications services about the data planned to be processed, the purposes of processing and duration of storage.

3. A provider of public communications network and (or) public electronic communications services shall ensure that data specified in paragraph 1 of this Article are handled only by persons authorised by providers of public communications networks and public electronic communications services, and to the extent it is necessary for their direct functions to be performed.

4. Upon termination of the contract with the subscriber or registered user of electronic communications services, the accumulated traffic data of subscribers or registered users of electronic communications services may be stored for no longer than six months from the date of the communication, with the exception of data specified in Article 65(2) of the Law, the retention period of which is established in paragraph 6 of this Article, unless the account is legally challenged or flow data are required to recover the indebtedness.

5. Traffic data of the subscriber or registered user of electronic communications services may be stored for no longer than six months from the date of the communication, unless the bill is legally challenged or data are necessary to recover the debt and in cases referred to in Article 77(3) of this Law.

6. Data referred to in Article 65(2) of this Law shall be stored for six months from the date of the communication.

7. The obligation to protect data shall include storage of data specified in Article 65(2) of this Law relating to unsuccessful call attempts, when such data is generated or processed and stored (as regards telephony data) or logged (as regards Internet data) by providers of public communications networks and/or public electronic communications services providers when supplying the relevant services.

8. Providers of public communications networks and/or public electronic communications services shall store data referred to in Article 65(2) in accordance with the following principles:

1) the data must be of the same quality and subject to the same security and protection requirements as those data on the network;

2) data are subject to appropriate technical and organizational measures to protect them against accidental or unlawful destruction, accidental loss or alteration, or unauthorized or unlawful storage, processing, access or disclosure;

3) data are subject to appropriate technical and organizational measures to ensure that authorized personnel can obtain access to them only.

9. At the end of the retention period referred to in paragraphs 4, 5 and 6 of this Article, the stored data must be destroyed.

10. Supervision over the legality of the processing of personal data shall be exercised in the field of electronic communications pursuant to the laws and other legal acts regulating the processing of data and the protection of privacy.

**Article 67. The right of the subscriber to access and control data processed by the providers of public communications networks and/or public electronic communications services about the subscriber**

1. Before they are included in a printed or electronic directory of subscribers available to the public or obtainable through directory enquiry services, subscribers must be free of charge informed about the purpose of a subscriber directory in which their data is planned to be included and of any further usage possibilities based on search functions embedded in electronic versions of the directory.

2. The subscriber shall have the right to decide whether his data will be included in a public subscriber directory, as well as which personal data correspond to the purpose of the subscriber directory as declared by the provider of electronic communications services. The subscriber shall have the right to verify such data, correct or withdraw them himself or require the electronic communications services provider to do so. Being or not being included in a public subscriber directory, verifying, correcting or withdrawing personal data from it shall be free of charge.

3. For any purpose of a public directory other than the search of contact details of persons on the basis of their name (surname), a subscriber's consent for the inclusion of personal data in such a directory shall be required.

4. A provider of public communications networks and (or) public electronic communications services must ensure that the subscriber or registered user of electronic communications services may easily access the data collected by the provider of public communications networks and (or) public electronic communications services about the subscriber. By a separate written request the subscriber may request to provide certified copy of all or part of the data (e.g., itemized bills for the electronic communications services provided within a certain period of time) about the subscriber. In any case, the applicant may be required to pay the costs of the provision of data or certified data copy only.

5. The State Data Protection Inspectorate, within their competence and as far as it relates to the subject matter of this section, shall set requirements for provision of itemized bills.

#### **Article 68. Provision of data to third parties**

1. Upon prior consent of the subscriber or registered user of electronic communications services, the provider of public communications network and/or public electronic communications service may use traffic data for the marketing purposes of electronic communications services or provision of value-added service, or transfer them to a third party, when the latter is the actual value-added service provider to this subscriber or registered user of electronic communications services. The subscriber or registered user of electronic communications services who expressed such consent must be guaranteed easily implemented and free tools to change, suspend or cancel the consent at any time.

2. In case of every emergency call providers of public communications networks and public electronic communications services shall provide free of charge location data (including traffic data) without the consent of the subscriber or the actual user of electronic communication services to the Emergency Response Centre. The location data in case of every emergency call shall be provided free of charge to the Emergency Centre right after the Emergency Response Centre responds to the emergency call. The Emergency Response Centre submits proposals to the Communications Regulatory Authority regarding the accuracy and reliability criteria for the caller's location data. The Communications Regulatory Authority shall, taking into consideration the proposals of the Emergency Response Centre for proposals, set the accuracy and reliability criteria for the caller's location data. Expenses for the acquisition of hardware (and associated software) that is not necessary to ensure the provider's economic activity, but is necessary for

providing location data (including traffic data) to the Emergency Response Centre shall be reimbursed to the providers of public communications networks and public electronic communications services with state budget funds in accordance with the procedure set by the Government only upon the amendment of accuracy and reliability criteria for the caller's location data. Other provisions of this paragraph shall be implemented in accordance with the terms and conditions of Article 34(10) of this Law.

***Version after 01/01/2017:***

2. In case of every emergency call providers of public communications networks and public electronic communications services shall provide free of charge location data (including traffic data) without the consent of the subscriber or the actual user of electronic communication services to the Emergency Response Centre. The location data in case of every emergency call shall be provided free of charge to the Emergency Centre immediately right after the Emergency Response Centre responds to the emergency call. The Emergency Response Centre submits proposals to the Communications Regulatory Authority regarding the accuracy and reliability criteria for the caller location data. The Communications Regulatory Authority with regard to the proposals of the Emergency Response Centre for proposals shall set the accuracy and reliability criteria for the caller's location data.

3. Competent institutions shall, in accordance with the terms and procedure of legal acts, have the right to obtain information on the subscribers or registered users of electronic communications services and the related traffic data when it is necessary to resolve the disputes between providers of electronic communications services and users of services.

4. The Government shall, in accordance with the general principles for data processing set in Article 3 of the Law on Personal Data Protection, establish the terms and procedure for providing the data referred to in Article 65(2) of this Law, in accordance whereof the immediate and secure transfer of the stored data shall be ensured upon a competent authority's request for such data.

**Article 69. Direct marketing**

1. The use of electronic communications services, including electronic mail, for the purposes of direct marketing may only be allowed in respect of subscribers or registered users of electronic communications services who have given their prior consent.



2. When a person obtains in accordance with the procedure and conditions set out in the Law on Legal Protection of Personal Data from customers their electronic contact details in the process of selling a product or a service, he may use these electronic contact details for direct marketing of its own similar products or services provided that customers are given an opportunity in a clear and distinct manner, free of charge to refuse the usage of their electronic contact details when they are obtained; this opportunity shall continue to be offered with each subsequent message in case the customer has not initially objected to such usage.

3. It shall be prohibited for the purposes of direct marketing to send e-mail messages by concealing identity of the sender, on whose behalf the information is sent, in violation of the requirements set out in the Law on Information Society Services, without a valid address to which the user may send a request to terminate the transmission of such information, or which encourage users to visit websites which do not comply with the requirements of the Law on Information Society Services.

#### **Article 70. Provision of statistical data**

1. An institution authorised by the Government shall collect information in accordance with the procedure established by the Government about the provision of data referred to in Article 65(2) to the competent authorities.

2. When using the collected information referred to in paragraph 1 of this Article, the institution authorised by the Government shall every year submit to the European Commission statistical data related to the retention of data generated or processed in the provision of public electronic communications services or of public communications networks and covering:

- 1) cases when information was provided to the competent authorities;
- 2) the time elapsed between the initial data storage day and the day on which the competent authority requested the transmission of data;
- 3) cases when the requirements could not be met.

3. When providing statistical data referred to in paragraph 2 of this Article, personal data shall not be provided.

### **CHAPTER TEN**

### **OBTAINING OF INFORMATION AND SUPERVISION OF COMPLIANCE**

### **WITH THIS LAW**

## **Article 71. Obtaining of information**

1. The Communications Regulatory Authority shall be entitled to receive from municipal and state institutions, including European Union institutions and other European Union Member States, providers of electronic communications networks and services and users of radio frequencies (channels) , telephone numbers , and other electronic communications resources, as well as other persons, all information necessary to the European Commission, the Body of European Regulators for Electronic Communications, national regulatory institutions of other European Union Member States for the execution of assigned tasks and functions, including financial information and information relating to the future expansion of electronic communications network or electronic communications that could affect whole-sale services provided by other electronic communications networks and service providers, as well as accounting data of operators with significant impact on the wholesale market where such data are on retail markets related to that wholesale market, in spite of the confidentiality of the information referred to in this paragraph. Providers of electronic communications networks and services, users of radio frequencies (channels), telephone numbers and other electronic communications resources as well as persons must submit to the Communications Regulatory Authority any information at its request and within a reasonable time-scale and according to the level of detail required by the Communications Regulatory Authority.

2. The Communications Regulatory Authority shall ensure the confidentiality of confidential information in accordance with the procedure and conditions set out in legal acts. Confidential information shall not include general information about individual electronic communications markets as well as data on the market share held by individual undertakings, number of subscribers (including data on subscribers of specific types), income (including data on income from specific activities) and the size of electronic communications or call traffic. The Communications Regulatory Authority shall keep the information received from European Union institutions and/or other European Union Member States in accordance with the procedure and conditions set out in European Union legal acts.

3. The Communications Regulatory Authority may request from undertakings engaged in electronic communications activities, to the extent that it is related to the pursuit of electronic communications activities or use of electronic communications resources or to the extent that it is related to the obligations imposed on an undertaking

having significant market power on the relevant market or designated to provide universal service, information that is proportionate and objectively justified for the following purposes (not applicable to the provision of information relating to the installation of electronic communications infrastructure):

1) systematic or case-by-case verification of compliance by an undertaking with the provisions of this Law and other legal acts related to efficient and effective use of electronic communications resources, funding of universal services or fees to the Communications Regulatory Authority as well as to payments to the state budget related to the right of use of electronic communications resources and with the obligations imposed on an undertaking having significant market power on the relevant market or designated to provide universal services;

2) specific verification of compliance by an undertaking with the legal acts establishing the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources;

3) procedures for assigning electronic communications resources and assessing relevant requests;

4) publication of comparative overviews of quality and price of services for the benefit of consumers;

5) clearly defined statistical purposes;

6) market analysis purposes;

7) evaluation of development of electronic communications networks and/or services, which may have an impact on wholesale services made available to other undertakings;

8) assessment of the possibility to share the of electronic communications infrastructure, the drafting of a detailed inventory of the nature, availability and geographical location of the electronic communications infrastructure;

9) assessment of security and/or integrity of public communications networks and/or public electronic communication services;

10) effective use of radio frequencies (channels) and ensuring of effective radio frequencies (channels) control.

4. The Communications Regulatory Authority may not request the information referred to in paragraph 3 above, except for the information specified in point 3 of paragraph 3 of this Article, from an undertaking which intends to engage in an electronic communications activity before it is granted the right to pursue or before it starts pursuing

the electronic communications activity (whichever is earlier) or as a precondition for obtaining such a right.

5. When requesting the information referred to in paragraph 3 from providers of electronic communications networks and services, the Communications Regulatory Authority shall inform undertakings of the specific purpose for which this information is to be used.

6. Provisions of this Article shall apply *mutatis mutandis* to the State Data Protection Inspectorate in so far as this is related to the supervision of compliance with the provisions of Chapter Nine of this Law.

7. For obtaining and providing information referred to in this Article, provisions of the Law on Public Administration shall also apply.

## **Article 72. Supervision of compliance with the law**

1. Where the Communications Regulatory Authority finds that an undertaking does not comply with the legal acts specifying the terms and conditions for engaging in electronic communications activities or the terms and conditions for the use of electronic communications resources or fails to fulfil one or more of the obligations imposed on it as an undertaking having significant market power on the relevant market or designated to provide universal service, or does not fulfil the obligations imposed by the Communications Regulatory Authority in accordance with Article 22(6) of this Law, it shall notify the undertaking in writing of the infringements identified and give the undertaking an opportunity to present its views within a reasonable time limit set by the Communications Regulatory Authority.

2. The Communications Regulatory Authority shall have the right to require to bring the infringement referred to in paragraph 1 to an end immediately or within a reasonable time limit set by the Communications Regulatory Authority or take other corresponding and proportionate measures to ensure enforcement of legal acts, including imposition of economic sanctions established in Article 74 of this Law. The Communications Regulatory Authority shall have the right to impose effective, proportionate and dissuasive economic sanctions, even if the infringement has been discontinued.

3. The Communications Regulatory Authority shall have the right to impose economic sanctions for failure to provide information in accordance with provisions of Article 18 of this Law or for failure to provide information referred to in Article 71(3)(1)

and (2) of this Law, including impeding the access to information as provided for in Article 73 and/or failure to fulfil the requirements set out in Article 73, without imposing the procedure established in paragraphs 1 and 2 of this Article.

4. In cases of serious or repeated breaches of the legal acts specifying the terms and conditions of engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or of the obligations imposed on an undertaking having significant market power on the relevant market or designated to provide universal service, where the measures undertaken under paragraph 2 above have been not sufficient to remedy the breaches, the Communications Regulatory Authority shall have the right to prohibit an undertaking from continuing to provide electronic communications networks and/or services for a period of up to three years or suspend the right to use electronic communications resources for a period of up to three years or withdraw it.

5. Having determined that an undertaking with significant market power fails to comply with the access obligation imposed on it, which causes considerable damage to competition, the Communications Regulatory Authority may authorise the undertaking to terminate or suspend a specific service or provision of the associated services.

6. The Communications Regulatory Authority shall communicate the measures and the reasons on which they are based to the undertaking concerned without delay, but no later than within three days after the decision to apply measures in accordance with paragraphs 2 and 5 of this Article, and establish a reasonable time limit within which the undertaking must implement these measures.

7. Where the Communications Regulatory Authority has evidence of a breach of the legal acts specifying the terms and conditions for engaging in electronic communications activities or the terms and conditions of use of electronic communications resources or of the obligations imposed on an undertaking having significant market power or designated to provide universal service that represents an immediate and serious threat to public order, public safety or public health or will create serious economic or operational problems for other providers of electronic communications services or users of electronic communications networks and/or services, it shall have the right to take urgent provisional measures irrespective of the provisions of paragraphs 1, 2 and 6 above, including a temporary detention of objects that were a tool or a direct object of breach of this Law and/or a temporary prohibition of the pursuit of electronic communications activities or of use of electronic communications resources. Where such measures have

been taken by the Communications Regulatory Authority, it shall give the undertaking concerned a reasonable opportunity to state its views and propose any remedies. The Communications Regulatory Authority may impose temporary measures for a maximum period of three months, which may be further extended for up to three months.

8. The provisions of this Chapter, except for this paragraph and Article 71 of the Law, shall apply to undertakings to the extent that it is related to the pursuit of electronic communications activities. Natural persons who are not engaged in the pursuit of electronic communication activities and management staff or other responsible persons of undertakings that do not engage in the pursuit of electronic communications, shall be liable for failure to comply with this Law and/or implementing legislation under the procedure and conditions set forth in the Code of Administrative Offences of the Republic of Lithuania. Where the provisions of this Chapter, except for this paragraph and Article 71, are not applied to the suspension and/or withdrawal of the right to use electronic communications resources due to a breach of legal acts, the right to use electronic communications resources shall be suspended and/or withdrawn subject to the cases, procedure and conditions set out in the Code of Administrative Offences and the rules for the assignment and use of electronic communications resources.

9. The provisions of this Article, except for the imposition of economic sanctions, shall apply *mutatis mutandis* to the State Data Protection Inspectorate to the extent that it is related to the supervision of compliance by undertakings engaged in electronic communications activities with the provisions of Chapter Nine of this Law.

### **Article 73. Officials of the Communications Regulatory Authority**

1. Officials authorised by the Communications Regulatory Authority, following the provision of the Law on Public Administration of the Republic of Lithuania and having presented a certificate of employment and a document issued by the Communications Regulatory Authority attesting their authorisations and functions performed, shall have the following rights related to the supervision of compliance with this Law exercised on behalf of the Communications Regulatory Authority:

1) to obtain necessary information in accordance with the procedure and conditions set out in this and other laws and legal acts;

2) upon presentation of a permit issued by the court, to gain access to and inspect premises, territory and vehicles used and/or accommodated by a person, review data

and/or documents which are necessary for investigation, obtain copies of and extracts from such documents, and gain access to information stored in computers and data media;

3) to obtain oral and written explanations from persons under inspection; to request that they give explanations in the office of an authorised official conducting the investigation;

4) to obtain from undertakings any data and documents or copies of the said documents on economic operations of the person under inspection, irrespective of the subordination of such other undertakings, including from state and municipal institutions and other persons;

5) to inspect (audit) economic operations of an undertaking, obtain opinions from expertise bodies based on inspection materials, carry out a detailed review of the cost and/or income accounting system (systems) of the undertaking;

6) to seize, for a period of up to 30 days, documents and objects necessary for or to be used as evidence in the investigation of an infringement, leaving a reasoned decision for the seizure of documents and/or objects and a list of documents and/or objects seized; to require that copies of the specified documents be supplied;

7) to use the services of specialists and experts for the investigation;

8) to use technical means during investigation in compliance with the procedure established by the law, also, without prejudice to the sanctity of private life guaranteed by the laws, make photographs, audio and video recordings;

9) to conduct on-the-spot inspections of equipment and/or devices and take equipment and/or devices;

10) to exercise other rights provided for by this and other laws.

2. When performing their functions, the officials authorised by the Communications Regulatory Authority may use the services of police officers.

3. When exercising the rights granted to them, the officials authorised by the Communications Regulatory Authority shall draw up documents (statements, protocols, requests, etc.). The form of such documents and filling-out requirements shall be specified by the Communications Regulatory Authority.

4. Instructions of the officials authorised by the Communications Regulatory Authority given when performing the actions indicated in this Article shall be binding on persons and undertakings, as well as their management and administration staff. These entities must properly cooperate with the authorized officers of the Communications

Regulatory Authority. Sanctions provided for in this and other laws shall be imposed for failure to comply with the said instructions.

5. Persons shall have the right to appeal to the director of the Communications Regulatory Authority against illegal actions by its officials. The appeal shall be filed not later than 10 days after learning about the actions appealed against. The director of the Communications Regulatory Authority shall adopt a decision regarding the appeal within 10 days from the receipt thereof. Should persons disagree with the decision of the director of the Communications Regulatory Authority or should the director of the Communications Regulatory Authority fail to adopt a decision within 10 days, the person concerned shall be entitled to appeal to court. Filing of an appeal shall not stop relevant actions by the officials of the Communications Regulatory Authority, unless a court determines otherwise.

6. A request for permission to take actions referred to in point 2 of paragraph 1 of this Article shall be filed with Vilnius Regional Administrative Court. The request shall specify the name of the court to which this request is filed, a full name, personal code of an authorized official of the Communications Regulatory Authority, a full name of a natural person (if known) or a name, code, legal office of a legal person under inspection, a full name (if known) of a manager or authorized representative of the legal person, the nature of suspected infringement and the actions planned, circumstances important for intended actions, supporting evidence, place of location of other evidence, request of the authorized official of the Communications Regulatory Authority, a list of enclosed documents, place and date of drawing up the request. The request shall be examined by Vilnius Regional Administrative Court who will make a reasoned ruling satisfying or rejecting the request. The request must be examined and a ruling handed down not later 72 hours after the request is submitted. If an official authorised by the Communications Regulatory Authority does not agree with the decision of Vilnius Regional Administrative Court to reject the request, s/he shall be entitled to appeal to the Supreme Administrative Court of Lithuania against the ruling within a period of seven days. The Supreme Administrative Court of Lithuania shall examine the appeal against the ruling of the Vilnius Regional Administrative Court within a period of no longer than seven days. An authorized official and/or representative of the Communications Regulatory Authority shall have the right to attend the sitting where the appeal is examined. A ruling of the Supreme Administrative Court of Lithuania shall be final and not subject to appeal. When examining requests and appeals for permission to take actions, the court must ensure the



secrecy of the information presented and of the actions planned. In urgent cases, certain actions by authorized officials from the Communications Regulatory Authority may be taken based on a decision of its director. In this case, a request for permission to take actions shall be filed to court in accordance with the procedure set out above within 24 hours after the adoption of such decision. Should the court refuse to issue a permit, the actions shall be discontinued and any information received while taking such actions shall be destroyed immediately.

#### **Article 74. Economic Sanctions**

1. Should an undertaking fail to comply with the legal acts specifying the conditions for the pursuit of electronic communications activities or the conditions of rights of service recipients, including consumers, to use of electronic communications resources or should it fail to fulfil obligations imposed on it as an undertaking having significant power on a relevant market or designated to provide universal services or should it fail to comply with the obligations imposed by the Communications Regulatory Authority in accordance with Article 22(6) of this Law or should it fail to comply with the Technical Regulations of Radio Equipment or the Technical Regulations of Electromagnetic Compatibility, the Communications Regulatory Authority shall have the right to impose a fine of up to 3 % of the annual gross income from activities associated with electronic communications, and if it is difficult or impossible to calculate the volume of such activity – a fine of up to EUR 86,886.

2. In case where an undertaking commits a repeated or serious infringement referred to in paragraph 1, the Communications Regulatory Authority shall have the right to impose a fine of up to 5 % of the annual gross income from activities associated with electronic communications, and if it is difficult or impossible to calculate the volume of such activity – a fine of up to EUR 144 810.

3. Where the annual gross income referred to in paragraphs 1 and 2 above is less than EUR 86 886, a fine of up to EUR 2 896 shall be imposed, while in the case of a repeated or serious infringement – up to EUR 5 792.

4. If an undertaking fails to comply with the obligation imposed by the Communications Regulatory Authority to discontinue illegal activities, does not submit information in accordance with the procedure and conditions set out in this Law (submission of incorrect information shall also be considered as failure to submit information), impedes officials authorised by the Communications Regulatory Authority

to perform their duties or does not comply with the requirements of the Communications Regulatory Authority, including any provisional protection measures, the Communications Regulatory Authority shall have the right to impose a fine of up to EUR 14 481 and in the event of continuous infringement – a fine of up to EUR 1 448 for each day of continued infringement.

5. In addition to the economic sanctions provided for in paragraphs 1-4 of this Article and in Article 72(4), the Communications Regulatory Authority has the right to order seizure of objects that were a tool or a direct object of infringement of this Law and/or payment of damages caused by illegal activities.

6. Where an undertaking is a group of associated persons, members of the group who acted as a single economic unit when committing an infringement shall be considered as offenders.

#### **Article 75. Imposition of economic sanctions and determination of their size**

1. Economic sanctions shall be imposed on an undertaking by the director of the Communications Regulatory Authority or a person authorised by him. The Communications Regulatory Authority shall adopt rules regulating the procedure for imposing economic sanctions.

2. The procedure for imposing economic sanctions on the basis provided for in paragraphs 2, 3, 4 or 5 of Article 72 of this Law shall be initiated by a written proposal from an official of the Communications Regulatory Authority. The proposal shall specify the circumstances of the infringement of this Law and the proposed economic sanction. Upon the receipt of an official communication by the official, the director of the Communications Regulatory Authority or a person authorised by him shall hold a meeting on the imposition of an economic sanction. The undertaking on which a sanction is to be imposed shall be informed about the meeting. The undertaking must submit supporting evidence to prove that there is no element of infringement of this Law as well as evidence of mitigating circumstances or any other relevant evidence in support of an adequate sanction before the beginning of the meeting.

3. The meeting on the imposition of an economic sanction may be attended, with the right to present explanations, by an undertaking on which the sanction is to be imposed, other interested undertakings and persons as well as persons whose participation is required for a proper examination of the issue of imposition of sanctions (witnesses, experts, specialists or other persons). Failure of an undertaking on which the sanction is to

be imposed or other undertakings or persons to attend the meeting shall not prevent the meeting from being held. The meeting shall be public, except for the cases where the Communications Regulatory Authority decides to examine the issue at a closed meeting with a view to safeguarding state, official or commercial secrets or ensuring the person's right to privacy.

4. The meeting shall be started by a report of the official from the Communications Regulatory Authority who has made the written proposal. Representatives of undertakings and persons attending the meeting may present their explanations. Other participants in the meeting may put questions to any person who has made a report or provided an explanation. The meeting shall be held in the Lithuanian language.

5. The minutes of the meeting shall be executed not later than within five working days after the meeting. The minutes shall be signed by the director of the Communications Regulatory Authority or a person authorised by him and the secretary of the meeting.

6. The undertaking on which a sanction is to be imposed or has been imposed and other interested undertakings and persons shall have the right to gain access to the materials collected by the Communications Regulatory Authority, except for those materials which constitute a state, official or commercial secret or the disclosure of which would violate the natural person's right to privacy. The undertaking on which a sanction is to be imposed shall always be provided access to the text of the written proposal by the official from the Communications Regulatory Authority and the minutes of the meeting on the imposition of an economic sanction.

7. After the meeting on the imposition of an economic sanction, the director of the Communications Regulatory Authority or a person authorised by him shall forward the issue to the Council of the Communications Regulatory Authority. After the Council examines the issue of the imposition of an economic sanction, the director of the Communications Regulatory Authority or a person authorised by him shall make the final decision. The decision on the imposition of an economic sanction made by the director of the Communications Regulatory Authority or a person authorised by him may be appealed against in accordance with the procedure and conditions set out in the Law on Administrative Proceedings and Article 6(7) of this Law.

8. The director of the Communications Regulatory Authority or a person authorised by him shall have the right at any moment of the procedure of imposition of an economic sanction to instruct officials from the Communications Regulatory Authority to supplement the collected materials. Upon fulfilment of such instructions by officials of the

Communications Regulatory Authority, a supplemented written proposal shall be drawn up and the procedure of imposition of an economic sanction shall be started anew.

9. When imposing economic sanctions on undertakings, account shall be taken of:

1) the extent of the damage incurred by the infringement;

2) the duration of the violation;

3) the circumstances mitigating or aggravating liability of the economic entity;

the amount of income that the undertaking has received as a result of the infringement;

5) influence of each undertaking over the committing of the infringement, where the infringement has been committed by several undertakings.

10. Mitigating circumstances shall include actions of the undertaking concerned taken at its own initiative to prevent the harmful consequences of the infringement as well as its assistance to the Communications Regulatory Authority in the investigation of the infringement, compensation of losses or elimination of the damage done.

11. Aggravating circumstances shall include actions by the undertaking concerned to impede the investigation procedure, conceal the infringement, continue the infringement despite the Communications Regulatory Authority's instructions to discontinue illegal actions as well as a repeated infringement for which sanctions provided for in this Law have already been imposed on the undertaking.

12. When determining the size of the economic sanction, the Communications Regulatory Authority may also recognise other circumstances as mitigating circumstances.

#### **Article 76. Enforcement of economic sanctions**

1. The undertaking must implement the economic sanction imposed by the Communications Regulatory Authority by paying the fine to the state budget and/or transferring gratis the confiscated objects not later than three months after the receipt of the decision.

2. At a reasoned request of the undertaking, the Communications Regulatory Authority may defer by its decision the payment of the fine or part thereof for a period of up to six months.

3. A decision on the imposition of an economic sanction issued by the Communications Regulatory Authority shall be an executive document. Where it is not implemented, the decision shall be forwarded to the State Tax Inspectorate for implementation in accordance with the procedure established by the Code of Civil

Procedure. A decision may be presented for execution not later than within three months after its adoption.

4. Any seized objects shall be realised in accordance with the procedure established by legal acts.

5. The Communications Regulatory Authority shall have the right to determine the terms and conditions for compensating the damage incurred by illegal actions of an undertaking.

6. Where the sanction is imposed on an undertaking that is a group of associated persons, all members of the group shall be jointly and severally liable for the adequate implementation of economic sanctions, taking account of the provisions of Article 74(6) of this Law.

## **CHAPTER ELEVEN**

### **FINAL PROVISIONS**

#### **Article 77. Supervision and monitoring of electronic communications traffic**

1. Main institutions of criminal intelligence services, pre-trial investigation institutions, prosecutors, courts or judges must be provided in accordance with the procedure established by the law by undertakings providing electronic communications networks and/or services with the information which is available to them and which is necessary to prevent, investigate, and detect criminal acts. Undertakings providing electronic communications networks and/or services, must provide entities of criminal intelligence in accordance with the procedure established by the law with information necessary for forecasting, identifying or eliminating risks that may have significance for the national sovereignty, territorial integrity and inviolability, constitutional structure, interests, defence or economic power of the state. Main institutions of criminal intelligence services and pre-trial investigation institutions designated by the Government shall be provided with the above mentioned information by undertakings providing electronic communications networks and/or services immediately, free of charge and in electronic form in response to the enquiries of the said institutions. Pre-trial investigation institutions designated by the Government shall provide their subdivisions and/or other pre-trial investigation institutions with access to such information in accordance with the procedure established by the Government. All persons taking part in the exchange of information shall make necessary arrangements to ensure data security in accordance with

the procedure and under the conditions set forth by the Government; the additional equipment necessary for this purpose shall be obtained from and maintained with Government funds. If the information presented by an undertaking providing electronic communications networks and/or services needs to be confirmed for pre-trial investigation purposes, the pre-trial investigation officer shall directly address the undertaking in writing and the undertaking shall provide a written response.

2. Undertakings providing electronic communications networks and/or services shall, in implementing the provisions of paragraph 1 of this Article, approve internal rules for the management of requests and/or enquiries for providing the information. Undertakings providing electronic communications networks and/or services shall provide information, at the request of the State Data Protection Inspectorate, about these procedures, the number of applications and/or enquiries, their legal basis and the answers provided.

3. If the data referred to in Article 65 of this Law are necessary for entities of criminal intelligence, intelligence institutions, pre-trial investigation institutions, prosecutors, courts or judges to prevent, investigate and detect criminal acts, upon the instruction of the institutions authorised by the Government, i.e. an entity of criminal intelligence or an intelligence institution, the undertakings providing electronic communications networks and/or services must extend the retention period of this information specified in paragraphs 4, 5 and 6 of Article 66 of this Law, but by no longer than six months. Such storage shall be paid for with state budget funds in accordance with the procedure established by the Government.

4. Where there is a reasoned court ruling or any other legal basis provided for in the laws, undertakings providing electronic communications networks and/or services must provide entities of criminal intelligence, intelligence institutions in accordance with the procedure established by the law, and pre-trial investigation institutions in accordance with the procedure established by the Code of Criminal Procedure, with technical possibilities to exercise control over the content of information transmitted by electronic communications networks. Equipment necessary for this purpose shall be obtained from and maintained by Government funds.

5. An institution authorised by the Government, i.e. an entity of criminal intelligence or an intelligence institution, shall organise and provide, in accordance with the procedure established by the Government, each entity of criminal intelligence, intelligence institution and, in the event of criminal proceedings, each pre-trial

investigation institution with a technical opportunity to exercise independent control over the content of information transmitted by electronic communications networks.

6. Undertakings providing electronic communications networks and/or services shall inform an institution authorised by the Government, i.e. an entity of criminal intelligence or an intelligence institution, and the Communications Regulatory Authority about any changes to be made in their networks or at points of interconnection with other electronic communications operators, which may affect the operation of equipment referred to in paragraphs 1 and/or 4 of this Article and the volume of information presented, as soon as they get to know about it.

7. Technical commands sent by an electronic communications network to start or discontinue wiretapping or any other control of the information transmitted over electronic communications networks shall be stored at the premises of an institution authorised by the Government, i.e. an entity of criminal intelligence or an intelligence institution, in such a way that would prevent the command data to be modified by the institution authorised by the Government which has sent such commands or by the undertaking which has received them. The Prosecutor General of the Republic of Lithuania or his authorised prosecutor shall exercise control over compliance with the provisions of this paragraph.

#### **Article 78. Extraordinary circumstances and special rules for securing communication**

1. The Government or an institution authorised by it shall approve a programme on implementing preparations for extraordinary circumstances and a scheme for organizing communications in extraordinary circumstances. Undertakings shall participate in the preparation of these legal acts and ensure their effective functioning.

2. In cases of force majeure, emergencies or other extraordinary circumstances or for the purpose of preparing for universal mobilisation or national defence or ensuring national security and public order, the Government or an institution authorised by it may, in accordance with the procedure established by laws and other legal acts, issue mandatory instructions, tasks and assignments to undertakings providing electronic communications networks and/or services as well as to owners or users of equipment and devices in order to protect and maintain the relevant electronic communications networks as well as to interconnect them and, where necessary, restrict public use of electronic communications networks.

3. Providers of electronic communications networks and services shall take any measures necessary to secure the functioning of public communications networks and services in the case of catastrophic network failure or force majeure such as unusual weather conditions, earthquakes, floods, lightning or fires as well as in other extraordinary circumstances. In such cases, relevant undertakings and institutions shall take all possible measures to maintain the highest service level in line with the priorities established by the Government or an institution authorised by it.

4. Providers of electronic communications networks and services must give absolute priority to communication with emergency services and institutions servicing emergency calls, including any telecommunications related to safety of life at sea, on land, in the air or further space, epidemiological telecommunications of exceptional urgency of the World Health Organization. Users of radio stations must ensure reception of disaster signals and disaster messages of whatever origin, giving them absolute priority, responding in the same manner and taking immediate action in respect of them.

5. Providers of electronic communications networks and/or services must give priority, in respect of other telecommunications, to telecommunications conducted by heads of state and government or members of government, chief commanders of land, naval or air forces, diplomatic or consular representatives of the Republic of Lithuania and other Member States of the International Telecommunication Union, the Secretary General of the United Nations, heads of UN main bodies and the International Tribunal or to telecommunications provided in response to such telecommunications to the extent that is necessary to take account of a specific request by the sender of relevant information.

6. The Communications Regulatory Authority shall have the right to set forth the procedure and conditions for implementing the obligations referred to in paragraphs 4 and 5 above.

7. It shall be prohibited to send or transmit false or misleading signals of disaster, urgency, security or identification.

8. Information constituting state and/or official secret shall only be transmitted over encoded radio communication channels.

#### **Article 79. Entry into force and application of the law**

1. This Law shall come into force on 1 May 2004, except for this paragraph, Article 80 and other provisions of the Law to the extent that they are related to Article 80.



2. Upon the entry into force of this Law, the Republic of Lithuania Law on Telecommunications (Official Gazette, 1998, no. 56-1548; 2000, no. 32-892, no. 61-1830; 2002, no. 75-3215, no. 123-5514; 2003, no. 38-1718) shall be repealed, but the undertakings which were recognised by the Communications Regulatory Authority as having significant market power before the entry into force of this Law, must comply with their obligations, including any obligations that according to the procedure provided for in the legal acts are binding to the undertakings having significant market power within the scope and subject to the conditions set out in the Republic of Lithuania Law on Telecommunications and secondary legislation, until the Communications Regulatory Authority, having completed market analysis in accordance with the procedure established in this Law, decides to revoke and/or modify such obligations. Such decision of the Communications Regulatory Authority shall be published in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios* and shall come into force not later than 28 days after its publication. The Communications Regulatory Authority, taking into account the results of market analysis, may issue a separate reasoned decision on individual obligations in respect of individual undertakings and set different time limits for such individual obligations which cannot be longer than 28 days following the publication of notification about the decision in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios*.

3. Personal data included in public directories of subscribers prior to coming into force of this Law may be kept in these directories until the subscriber expresses a wish to have them erased. Providers of public electronic communications services shall publicly inform the subscribers whose data have been included in respective directories about the rights granted to them by this Law.

4. Subordinate legal acts adopted prior to coming into force of this Law shall be valid to the extent that they do not contradict this Law. A provision shall not be considered as contradicting only because it applies to undertakings having significant market power identified in accordance with the procedure established by the Republic of Lithuania Law on Telecommunications.

5. Agreements concluded by the institutions of the Republic of Lithuania that correspond to the subject matter of Article 12(12) of this Law and that have been concluded prior to coming into force of this Law shall be presented for publication in the supplement *Informaciniai pranešimai* to the official gazette *Valstybės žinios* by 1 July 2004.

6. The director of the Communications Regulatory Authority and members of the Council of the Communications Regulatory Authority appointed prior to coming into force of this Law shall perform their functions until the expiry of their term of office unless dismissed earlier on the grounds specified in Article 7(9) of this Law. Two additional members of the Council of the Communications Regulatory Authority shall be appointed for the first time for the remainder of the term of Council members appointed prior to coming into force of this Law.

7. Any dispute between undertakings to be settled in accordance with Article 28 of this Law and any dispute based on end user complaints to be settled in accordance with Article 36 of this Law that were accepted for consideration prior to coming into force of this Law shall be examined and appealed against subject to the relevant legal norms valid prior to coming into force of this Law.

8. Procedures (such as market analysis and assignment of electronic communications resources, including tenders and auctions)) that were commenced in accordance with the Republic of Lithuania Law on Telecommunications and the legal acts implementing it shall be concluded subject to the legal norms valid prior to coming into force of this Law. The adoption of a decision by the Communications Regulatory Authority indicating procedure results shall be regarded as the end of the procedure; in the event that an authorisation is issued after the procedure is completed, its issue shall be regarded as the end of the procedure.

9. Article 34(10) of this Law shall come into force on 1 January 2006.

#### **Article 80. Implementation of the Law**

The Communications Regulatory Authority shall also have the right to adopt regulations and administrative provisions implementing this Law by the date specified in Article 79(1) of this Law.

*I promulgate this Law passed by the Seimas of the Republic of Lithuania.*

ACTING PRESIDENT OF THE REPUBLIC

ARTŪRAS PAULAUŠKAS

## **DATA CATEGORIES TO BE PROTECTED**

### 1. Data necessary to trace and identify the communication source:

1.1. related to fixed telephone communications network and mobile telephone communication:

1.1.1. telephone number from which the call is made;

1.1.2. name and surname (name) and address of the subscriber or registered user of electronic communications services;

1.2. related to Internet access, Internet e-mail and Internet telephony:

1.2.1. user identification codes issued;

1.2.2. user identification codes and telephone numbers issued to all communications via public telephone network;

1.2.3. identification code, telephone number, name and surname (name) and address of the subscriber or registered user of electronic communications services, which was assigned an Internet Protocol (IP) address.

### 2. Data necessary to identify the communication destination:

2.1. related to fixed telephone communications network and mobile telephone communication:

2.1.1. telephone number or numbers dialled (telephone number to which the call is made), and additional services, such as, for example, in call forwarding or call transfer cases, telephone number or numbers to which the call is routed;

2.1.2. the name and surname (name) and address of the subscriber or registered user of electronic communications services;

2.2. related to the Internet e-mail and Internet telephony:

2.2.1. identification code or telephone number of the intended telephone call by Internet user/users;

2.2.2. the name and address of the subscriber or registered user of electronic communications services and identification code of the intended telephone call by the Internet user.

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

3.1. related to fixed telephone communications network and mobile telephone communication, i.e. communication date and the beginning and end of time of the communication or the beginning time and duration of communication;

3.2. related to Internet access, Internet e-mail and Internet telephony:

3.2.1. date and time in a particular time zone of the connection to and log off the Internet access service, dynamic or static Internet Protocol (IP ) address, which was issued by the provider of Internet access service, and the identification code of the subscriber or registered user of electronic communication services;

3.2.2. date and time in a particular time zone of the connection to and log off the Internet e-mail service or Internet telephony service.

4. Data necessary to identify the type of communication:

4.1. related to the fixed telephone network and mobile telephone network, i.e. the telephone network service that is used;

4.2. relating to Internet access, Internet e-mail and Internet telephony, i.e. the Internet service that is used.

5. Data necessary to identify users' communication equipment or what purports to be their equipment:

5.1. related to fixed telephone network, i.e. telephone numbers to which and from which the call is made;

5.2. associated with mobile telephone connection:

5.2.1. telephone numbers to which and from which the call is made;

5.2.2. the International Mobile Subscriber Identity (IMSI) of the calling country;

5.2.3. the International Mobile Equipment Identity (IMEI) of the calling country;

5.2.4. the International Mobile Subscriber Identity (IMSI) of the called country;

5.2.5. the International Mobile Equipment Identity (IMEI) of the called country;

5.2.6. in case of an anonymous pre-paid service, the initial activation date, time and label of location, where the service has been activated (Cell ID);

5.3. related to Internet access, Internet e-mail and Internet telephony:

5.3.1. calling phone number used for dial-up connections;

5.3.2 . digital subscriber line (DSL) or other end points of the originator of a message .

6. The data required to identify the location of mobile communications equipment:

6.1. location label (Cell ID) at the beginning of communication;

6.2. data necessary to determine the geographical location of network equipment corresponding to the location label (Cell ID) at a moment of time when communications data are saved.

Annex 2 to  
Republic of Lithuania  
Law on Electronic Communications

## **LEGAL ACTS OF THE EUROPEAN UNION IMPLEMENTED BY THIS LAW**

1. Council Decision 97/838/EC of 28 November 1997 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the results of the WTO negotiations on basic telecommunications services (OJ 2004 special edition, Chapter 11, Volume 27, p. 69)

2. Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.

3. Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access (OJ 2004 special edition, Chapter 6, Volume 3, p. 147).

4. Repealed as of 18 October 2016.

5. Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) (OJ 2004 special edition, Chapter 13, Volume 29, p. 317).

6. Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) (OJ 2004 special edition, Chapter 13, Volume 29, p. 323), as last amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p.37).

7. Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) (OJ 2004 special edition, Chapter 13, Volume 29, p. 337), as last

amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p.37).

8. Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ 2004 special edition, Chapter 13, Volume 29, p. 349), as last amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p.37).

9. Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ 2004 special edition, Chapter 13, Volume 29, p. 367), as last amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p.11).

10. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ 2004 special edition, Chapter 13, Volume 29, p. 514), as last amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 (OJ 2009 L 337, p.11).

11. Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ 2004 special edition, Chapter 8, Volume 2, p. 178).

12. Commission Recommendation of 25 July 2003 on the processing of caller location information in electronic communications networks for the purpose of location-enhanced emergency call services.

13. Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation) (OJ 2004, L 364, page 1).

14. Repealed as of 18 October 2016.

15. Commission Directive 2008/63/EC of 20 June 2008 on competition in the markets in telecommunications terminal equipment (OJ 2008 L 162, p 20).

16. Commission Regulation (EU) No 611/2013 of 24 June 2013 on the measures applicable to the notification of personal data breaches under Directive 2002/58/EC of the

European Parliament and of the Council on privacy and electronic communications (OJ 2013 L 173, p. 2).

17. Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (recast). (OL 2014 L 96, p. 79).

18. Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OL 2014 L 153, p. 62).

19. *Directive 2014/61/EU* of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks (OJ 2014 L 155, p. 1).