E L E C T R O N I C C O M M U N I C A T I O N S
ACT (ZEKom-2)

(Unofficial consolidated version no. 1)

I. GENERAL PROVISIONS

Article 1
(Subject of the Act)

This Act regulates the conditions for the provision of electronic communications networks and electronic communications services, regulates the provision of universal service, the provision of competition, management of the radio spectrum and numbering resources, regulates more efficient construction and deployment of electronic communications networks and sharing of the existing physical infrastructure, lays down the conditions for restrictions on the right to property, defines the rights of users, regulates the security of networks and services, considering the risks associated with new technologies and their operation in situations of threat, ensures the implementation and regulates the protection of the right to communication privacy of users of publicly available communications services, regulates the resolution of disputes in the field governed by this Act, regulates the responsibilities, organisation and tasks of the Agency for Communication Networks and Services of the Republic of Slovenia (hereinafter: Agency) as an independent regulatory authority, as well as the competences of other authorities operating under this Act, and regulates other issues relating to electronic communications.

Article 2
(Purpose of the Act)

(1) The purpose of this Act is to promote the development of electronic communications networks, including the promotion of investment by decreasing the cost of construction and/or deployment of these networks and development of services in the Republic of Slovenia and thereby also economic and social development in the country, including the development of the information society, access to very high capacity networks for all citizens and enterprises in the European Union and their uptake, and the development of the internal market of the European Union and exercise of the legitimate interests of all its citizens. The purpose of this Act is also to ensure effective competition in the electronic communications market, efficient use of the radio spectrum and numbering resources, as well as universal service, and to protect the rights of users, including users with disabilities and users with special social needs, and to ensure the right to privacy of communication for users of publicly available communications services, and strengthened security rules for networks and services, including the management of risks associated with new technologies.

(2) This Act transposes into the legislation of the Republic of Slovenia the following EU directives:

1. Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36) (hereinafter: Directive 2018/1972/EU),
2. 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 L 201,

31.7.2002, p. 37) last amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ L 337, 18.12.2009, p. 11),

3. Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (OJ L 249, 17.9.2002, p. 21), and
4. 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 L 155, 23.5.2014, p. 1).

Article 3
(Definitions)

For the purposes of this Act, the following definitions apply:

1. Antenna system is part of an electronic communications network intended for transmitting and receiving radio waves and is composed of an antenna, cables and connected devices which may be individual parts or integrated into a whole.
2. Application Programme Interface (API) is the software interface between applications, made available by broadcasters or service providers, and the resources in the enhanced digital television equipment for digital television and radio services.
3. Public safety answering point is a notification centre or an operations and communications centre of the police where an emergency communication is received.
4. Digital broadcasting is a radio communications service in which the digital terrestrial transmission and dissemination of radio or television programming are intended for direct, open-space reception by the general public.
5. Access network is part of an electronic communications network which connects a network termination point to the nearest active equipment with which the network termination point directly exchanges signals.
6. Electronic communications service is a service normally provided for remuneration via electronic communications networks, including internet access services referred to in Article 2(2) of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1) (hereinafter: Regulation 2015/2120/EU), interpersonal communications services, and services consisting wholly or mainly in the conveyance of signals such as transmission services used for the provision of machine-to-machine services and for broadcasting. It excludes services providing, or exercising editorial control over, content transmitted using electronic communications networks or electronic communications services.
7. Electronic mail is any text, voice, audio or image message sent over a public communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient.
8. Electronic communications network is transmission systems, whether or not based on a permanent infrastructure or centralised administration capacity, and, where applicable, switching or routing equipment and other resources, including network elements which are not active, which permit the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including internet) and mobile networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and television

broadcasting, and cable television networks, irrespective of the type of information conveyed.

9. Numbering resources are numbers and codes, names and addresses. Numbering resources exclude internet addresses (numerical addresses under the internet protocol) which are required to establish communications between network termination points, and numbers and codes, names and addresses used exclusively inside a particular public communications network.
10. Physical infrastructure is any network element which is intended to host other network elements and which is not itself active, such as pipes, masts, ducts, inspection chambers, manholes, cabinets, buildings or entries to buildings, antenna installations and towers. Cables, including optical fibres, and networks used for the supply of water intended for human consumption, are not considered physical infrastructure in the sense of this Act.
11. Geographic number is a number from the numbering plan of the Republic of Slovenia referred to in Article 98 of this Act, where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point.
12. Voice communications service is a publicly available communications service for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in the numbering plan of the Republic of Slovenia referred to in Article 98 of this Act or an international numbering plan.
13. Construction works are any activity performed to build a new structure, reconstruct or remove one or more existing structures which are elements of physical infrastructure.
14. Harmonised radio spectrum is radio spectrum for which harmonised conditions relating to its availability and efficient use have been established by way of technical implementing measures in accordance with Article 4 of Decision of the European Parliament and of the Council 676/2002/EC of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (OJ L 108, 24.4.2002, p. 1) (hereinafter: Decision 676/2002/ES).
15. Cell ID is the identity of the cell from which a mobile telephony call originated, or in which it terminated.
16. Caller location information is, in a public mobile network, the data processed, derived from network infrastructure or handsets, indicating the geographic position of an end-user's mobile terminal equipment, and, in a public fixed network, the data about the physical address of the network termination point.
17. Infrastructure operator is a natural person or legal entity providing physical infrastructure intended for the provision of public service infrastructure, including the network operator.
18. Emergency service is a service provided by protection and disaster relief services defined by the Act governing protection against natural and other disasters, by the police in accordance with regulations governing the work of the police, and the emergency medical service in accordance with regulations governing healthcare activities.
19. Service provider is a natural person or legal entity which provides a publicly available communications service or which notified a competent regulatory authority of its intention to provide a publicly available communications service.
20. Universal service provider is a natural person or legal entity providing universal service or part thereof.
21. Publicly available communications service is an electronic communications service available to the general public.
22. Public sector has the meaning defined by the Act governing public employees, including public undertakings and companies in which a controlling interest or a dominant influence is held either by the State or by a local community.
23. Public communications network is an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services enabling the transmission of information between network termination points.

24. Cable duct is a civil engineering structure consisting of ducts, pipes and similar that enable the installation and maintenance of communications conduits.
25. Catastrophic network failure means a malfunction of the electronic communications network which cannot be repaired in a single day and which prevents or significantly impairs access to communications services for a significant number of users.
26. Cyber security has the meaning defined by the Act governing information security.
27. Cyber attack has the meaning defined by the Act governing information security.
28. Call means a connection established by means of a publicly available interpersonal communications service allowing two-way voice communication.
29. Key parts of the national security system mean networks and information systems in the field of defence, protection against natural and other disasters, police, intelligence and security activities and foreign affairs.
30. Communication means any information exchanged or conveyed between a finite number of parties by means of a publicly available communications service. It excludes any information conveyed as part of a broadcasting service to the public over an electronic communications network, except to the extent that such information can be related to the identifiable subscriber or user receiving such information.
31. Emergency communication means communication by means of interpersonal communications services between an end-user and the public safety answering point with the goal to provide emergency services. Emergency communication can be triggered by an in-vehicle emergency call (eCall) as defined in Regulation (EU) 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC (OJ L 123, 19.5.2015, p. 77).
32. Communications facility means a building or civil engineering structure which is part of an electronic communications network and associated infrastructure, including any device, or any device, equipment and infrastructure which is not a structure under the regulations governing construction of structures.
33. Communications conduit means the entire underground or overhead physical connection between two or more points, through which one-way or two-way or bidirectional communication is possible.
34. End-user means a user not providing public communications networks or publicly available electronic communications services.
35. Local loop means the physical path used by electronic communications signals connecting the network termination point to a distribution frame or equivalent facility in the fixed public communications network.
36. Personal data breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, or unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed in connection with the provision of publicly available communications services in the European Union (hereinafter: the EU).
37. Small-area wireless access point means low-power wireless network equipment access point of small size operating within a small range, using licenced radio spectrum or licence-exempt radio spectrum or a combination thereof, which may be used as part of a public electronic communications network, which may be equipped with one or more low visual impact antennae, and which allows wireless access by users to electronic communications networks regardless of the underlying network topology, be it mobile or fixed (for example low-power base stations such as femtocells, picocells, metrocells or microcells).
38. Transnational markets means markets identified in accordance with Article 163 of this Act, which cover the EU or a substantial part thereof located in more than one Member State.
39. Interconnection means the physical and logical linking of public communications networks used by the same or a different operator in order to allow the users of one operator to communicate with users of the same or another operator, or to access services provided by another operator. Services may be provided by the parties involved

or other parties who have access to the network. Interconnection is a specific type of operator access implemented between public network operators.

40. Interpersonal communications service means a service normally provided for remuneration that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipients. It excludes services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.
41. Number-based interpersonal communications service means an interpersonal communications service which connects with or which enables communication with numbering resources assigned pursuant to Chapter VII of this Act, namely, a number or numbers in the numbering plan of the Republic of Slovenia referred to in Article 98 of this Act or in an international numbering plan.
42. Number-independent interpersonal communications service means an interpersonal communications service which does not connect with numbering resources assigned pursuant to Chapter VII of this Act, namely, a number or numbers in the numbering plan of the Republic of Slovenia referred to in Article 98 of this Act or in an international numbering plan, or which does not enable communication with a number or numbers in the numbering plan of the Republic of Slovenia referred to in Article 98 of this Act.
43. Most appropriate public safety answering point means the competent operations and communications centre of the police or a regional notification centre covering emergency communications from a certain area.
44. Subscriber means a natural person or legal entity that is party to a contract with a provider of publicly available communications services for the supply of such services.
45. Non-geographic number means a number in the numbering plan of the Republic of Slovenia referred to in Article 98 of this Act that is not a geographic number, such as fixed numbers which are not tied to a fixed location of a network termination point, mobile, freephone and premium-rate numbers.
46. Business continuity means activities necessary to maintain the organisation's operations during a period of disruption or interruption of normal operation.
47. Internet neutrality means the principle whereby any internet traffic on the public communications network is treated equally, i.e. independently of the content, application, service, device, source or objective of the communication.
48. Open electronic communications network means a public communications network to which all operators have access under the same conditions.
49. Network termination point means the physical point at which an end-user is provided with access to a public communications network, and which, in the case of networks involving switching or routing, is identified by means of a specific network address, which may be linked to an end-user’s number or name.
50. Operator means a network operator and/or service provider. A natural person or legal entity that provides free access to the internet without the intention of profit-making, or where the provision of access to the internet is not part of that person's profit-making activity, is not an operator.
51. Network operator means a natural person or legal entity that provides a public communications network or associated facilities or has notified a competent regulatory authority of the intention to provide a public communications network or associated facilities.
52. Operator access means the making available of infrastructure and networks with associated elements, or services to another operator under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services, including for the provision of information society services or broadcast content services. It includes inter alia: access to network elements and associated devices, which may involve the connection of equipment by fixed or non-fixed means (in particular access to the local loop and to devices and services necessary for the provision of services on the local loop); access to physical infrastructure; access to

relevant software systems, including operational support systems; access to information systems or databases for pre-ordering, provision, ordering, maintenance, repair and billing; access to number translation or systems offering equivalent functionality; access to fixed and mobile networks, in particular for roaming; access to conditional access systems for digital television services; and access to virtual network services.

53. Passive communications infrastructure means communications conduits inside a building which enable high speeds and connect a distribution point to network termination points.
54. Location data means any data processed in an electronic communications network or as part of an electronic communications service, indicating the geographical position of the terminal equipment of an end-user of a publicly available communications service.
55. Traffic data means any data processed for the purpose of the conveyance of a communication in an electronic communications network, or for the billing thereof.
56. Third line support service provider means a managed service provider and an equipment supplier.
57. Consumer means any natural person who uses or requests a publicly available communications service for purposes which are outside their trade, business or profession.
58. Calling line identification presentation means a function enabling the called party to identify the network termination point from which the call originates on the basis of the number or code assigned to that network termination point.
59. Connected line identification presentation means a function enabling the calling party to identify the network termination point where the call ends on the basis of the number or code assigned to that network termination point.
60. Associated services means a service associated with an electronic communications network or an electronic communications service which enables or supports the provision, self-provision or automated-provision of services via that network or service, or has the potential to do so, and includes number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence.
61. Associated facilities means associated services, physical infrastructure and other facilities or elements associated with an electronic communications network or an electronic communications service which enable or support the provision of services via that network or service, or have the potential to do so, and include buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, masts, conduits, manholes, and cabinets.
62. Radio frequency means part of the radio spectrum defined by a central frequency and the width of the radio frequency channel, upper and lower limit frequencies of the radio frequency channel, or a specification of individual carrier frequencies.
63. Radio local area network (hereinafter: RLAN) means low-power wireless access system, operating within a small range, with a low risk of interference with other such systems deployed in close proximity by other users, using, on a non-exclusive basis, harmonised radio spectrum.
64. Amateur-satellite service means a radio communications service using space stations on earth satellites for the same purposes as those of the amateur service.
65. Amateur service means a radio communications service for the purpose of self training, intercommunication (the establishment of network interconnections) and technical investigations carried out by amateurs, that is by duly authorised persons interested in radio technique solely with a personal aim and without pecuniary interest.
66. Broadcasting is a radio communications service of transmission and dissemination of radio or television channels which enables direct open-space reception by the general public. Channel has the meaning defined by the Act regulating the media.
67. Radio frequency protection ratio means the minimum value of the signal-to-interference ratio at the entry to a receiver under specific conditions required to provide a signal of specified quality at the output of the receiver.

68. Radio communications services means electronic communications services provided through the use of radio frequencies.
69. Distribution point (concentration or distribution point) is a physical point inside or outside a building that is accessible to network operators and where the in-building physical and passive communications infrastructures may be connected. If an agency on the basis of paragraph two of Article 138 of this Act allows access beyond the distribution point, this point may comprise also active or virtual access.
70. Spectrum allocation means the designation of a given frequency band for use by one or more types of radio communications services, where appropriate, under specified conditions.
71. Conditional access system means a system which uses a technical measure, and/or an arrangement according to which access to a protected radio or television broadcasting service in unencrypted form is made conditional on subscription or other form of prior individual authorisation.
72. Business continuity management system means a strategic and tactical business management plan set up and implemented by an operator to respond quickly and effectively to disruptions, failures and security incidents in order to ensure the uninterrupted provision of publicly available communications services over its public communications network at an acceptable predefined level (hereinafter: BCMS).
73. Information security management system is a management system that provides a comprehensive and coordinated view of an organisation's information security risks and ensures the establishment, implementation, operation, monitoring, review, maintenance and improvement of the security of networks and information systems (hereinafter: ISMS).
74. Security management system is a system that includes BCMS and ISMS.
75. Consent means the personal consent of a user or subscriber in accordance with the regulations governing the protection of personal data.
76. Radio spectrum sharing means access by two or more users to the use of the same radio frequency bands in a specific spectrum sharing arrangement authorised in accordance with a general act referred to in Article 35 of this Act pursuant to a decision on the assignment of radio frequencies or not, or a combination of the two, including regulatory approaches such as co-access under a licence to facilitate radio spectrum band sharing, as agreed by all parties involved in a binding manner in accordance with the sharing rules included in their radio spectrum usage rights, in order to ensure a predictable and reliable sharing arrangement for all users, without prejudice to the rules governing the protection of competition.
77. Situation of threat to public communications networks (hereinafter: situation of threat) means state of war or emergency, state resulting from natural or other disasters in accordance with the Act governing natural or other disasters, and a catastrophic network failure.
78. In-building physical infrastructure means physical infrastructure or installations at the end-user's location, including elements under joint ownership (joint installations), intended to host wired and/or wireless access networks, where such access networks are capable of delivering electronic communications services and connecting the distribution point with the network termination point.
79. Total conversation service means a multimedia conversation service providing bidirectional symmetric real-time transfer of motion video, text and voice between users in two or more locations.
80. Information society service means a service defined in the Act governing the electronic commerce market.
81. Third line support service means one or more services related to the operation, maintenance, upgrade, configuration and management of a virtualised or physical network and services.

82. Value-added service means any service which requires the processing of traffic data, or location data other than traffic data, beyond what is necessary for the transmission of a communication or the billing thereof.
83. Broadband network means a public communications network that enables broadband access.
84. High-speed broadband network means a public communications network which is capable of delivering broadband access at speeds of at least 30 Mbps.
85. Harmful interference means interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable international, national or EU regulations.
86. Number means a number or prefix as defined by Recommendation E.164 of the International Telecommunication Union (hereinafter: ITU).
87. Emergency communication numbers means the single European emergency number 112, the police number 113, the single European telephone number for reporting missing children 116 000, and all other numbers defined as such in the numbering plan.
88. Terminal equipment means equipment directly or indirectly connected to the interface of a public telecommunications network to send, process or receive information. Equipment is indirectly connected if it is placed between the terminal and the interface of the public network. Terminal equipment also means satellite earth station equipment.
89. User means a natural or legal person using or requesting a publicly available communications service.
90. Critical infrastructure manager has the meaning defined by the Act governing critical infrastructure.
91. Security of network and information systems means the ability of network and information systems to resist, at a given level of confidence, any event that compromises the availability, authenticity, integrity or confidentiality of stored, transmitted or processed data, or of related services offered by, or accessible via, those network and information systems.
92. Security incident means an event having an actual adverse effect on the security of electronic communications networks or services.
93. Vertically integrated operator means an operator that operates at different retail and wholesale levels to provide networks and services.
94. Line is a part of a communications conduit that connects two or more points and through which one-way, two-way or bidirectional communication is possible (e.g. copper pair, optical fibre, coaxial cable, all types of overhead connections).
95. Provision of an electronic communications network means the establishment, operation, control or making available of such a network.
96. Lawful interception of communications means a procedure, ordered pursuant to the Act governing the criminal procedure or to the Act governing the Slovenian Intelligence and Security Agency, to obtain the content, circumstances and facts relating to a communication at a particular point in the public communications network.
97. Very high capacity network means either an electronic communications network which consists wholly of optical fibre elements at least up to the distribution point at the serving location, or an electronic communications network which is capable of delivering, under usual peak-time conditions, similar network performance in terms of available downlink and uplink bandwidth, resilience, error-related parameters, and latency and its variation. Network performance can be considered similar regardless of whether the end-user experience varies due to the inherently different characteristics of the medium by which the network ultimately connects with the network termination point.
98. Earth station means equipment used exclusively for communication by means of satellites or other space-based systems.
99. Enhanced digital television equipment means set-top boxes intended for connection to television sets or integrated digital television sets, able to receive digital interactive television services.

100. The capacity of a network termination point is the maximum data transfer rate that can be provided by an operator.

II. CONDITIONS FOR THE PROVISION OF ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES

Article 4
(Provision of electronic communications networks and services)

Any natural person or legal entity may provide electronic communications networks and/or electronic communications services, subject to the conditions set out in this Act and implementing regulations issued on the basis thereof, and in accordance with other applicable legislation, provided this does not endanger public order, human life and health, public security or national defence.

Article 5
(Notification)

(1) Prior to the commencement or alteration of the provision of public communications networks and/or publicly available communications services, with the exception of interpersonal communications services, notification must be given in writing to the Agency.

(2) After an operator notifies the Agency in accordance with the preceding paragraph, the operator shall, under the terms and in accordance with Article 130 of this Act, negotiate regarding interconnection with other operators, and, where appropriate, obtain operator access or interconnection from them, and the possibility of being designated a universal service provider pursuant to Articles 168 and 173 of this Act. The criteria and procedures for imposing individual obligations on operators shall proceed from Chapters IX and X and Articles 130, 168 and 173 of this Act.

(3) The notification referred to in the preceding paragraph must cite the information required by the Agency and the Body of European Regulators for Electronic Communications (hereinafter: BEREC) for the maintenance of official records of operators, and for supervision, in particular:

1. name and address for natural persons,
2. company name and registered office of the principal company in the EU and branches in the Member States for legal entities,
3. legal form and registration number or number of entry in the public register in another EU Member State,
4. operator’s website address if the operator has a website on which they publish information on the offer of electronic communications networks or services,
5. name of contact person and other contact details,
6. brief description of public communications networks and/or publicly available communications services that the operator intends to provide or implement,
7. EU Member States in which the activity will be implemented, and
8. envisaged date of commencement or alteration of the provision of public communications networks and/or publicly available communications services.

(4) The operator shall notify the Agency of changes relating to the information referred to in points 1–7 of the preceding paragraph within 30 days of the onset of such changes. The operator shall notify changes to the data referred to in point 8 of the preceding

paragraph prior to the envisaged date, except in cases of force majeure, when such changes may be reported within eight days of the cessation of reasons for force majeure. A change to the data referred to in point 8 of the preceding paragraph shall be deemed to occur if the provision of public communications networks and/or publicly available communications services does not actually commence on the envisaged date.

(5) The Agency shall, within seven days of receipt of notification with all the required information referred to in paragraph three of this Article, enter the operator in the official records and at the same time send to the operator confirmation of registration in the official records. Entry in the official records shall not form a condition for the exercise of the rights and obligations of operators under this Act. Confirmation shall not in itself create rights and obligations under this Act.

(6) The Agency shall, within seven days of receipt of notification not containing all the required information referred to in paragraph three of this Article, specifically call upon the operator to supplement the notification as required within an interval not shorter than eight days.

(7) The Agency shall, by means of a general act, specify the contents and form of the notification referred to in paragraph one of this Article, as well as the content of information referred to in paragraph three of this Article. It shall take into account the BEREC guidelines. The Agency shall, in a general act, specify the form and contents of the confirmation referred to in paragraph five of this Article.

(8) The Agency shall notify BEREC of the entry of an operator in the official records referred to in paragraph five of this Article.

(9) The operator must notify the Agency in writing of the termination of the provision of public communications networks or publicly available communications services at least 90 days before the envisaged termination. Such notification shall also include a description of the method of ensuring the permanent retention of data on registration of lawful interception and retention of electronic communications traffic data for the entire period for which such data must be retained in accordance with this Act, and in particular an indication of where the stored material will be available. With regard to the policy and conditions of retention, the provisions of the Act governing personal data protection and the Act governing documentary material protection shall apply.

(10) The Agency shall *ex officio* expunge from the records referred to in paragraph five of this Article an operator that notified the Agency in accordance with the preceding paragraph of cessation of the provision of public communications networks or the provision of publicly available communications services, or an operator for which the Agency has established that it is no longer entered in the Slovenian Business Register.

Article 6
(Fees based on notification)

(1) Operators shall be obliged to pay an annual fee to the Agency based on the notification referred to in paragraph one of the preceding Article. The fees referred to in this Article shall cover the cost of implementing the provisions of this Act, other than the provisions referred to in Chapters V, VI and VII of this Act.

(2) The amount of the fee referred to in the preceding paragraph shall be set by multiplying the number of points by the value of one point. In nominal terms, the number of points equals 0.1 percent of the annual revenue of an individual operator arising from the

provision of public communications networks and/or publicly available communications services in the Republic of Slovenia. The value of a point shall be determined by a tariff, which shall be a general act of the Agency.

(3) Notwithstanding the preceding paragraph, the Agency shall, on a reasoned proposal from the operator, take into account half of the annual revenue from publicly available communications services for international traffic originating and terminating entirely outside the Republic of Slovenia when determining the number of points. This shall not apply where such traffic is conducted by an end-user of the operator concerned. The burden of proving that the revenue is derived from publicly available communications services for international traffic originating and terminating entirely outside the Republic of Slovenia shall be on the operator. When an operator proves that it is obliged to pay to the national regulatory authority in another country a certain amount of revenue from publicly available communications services for international traffic originating and terminating entirely outside the Republic of Slovenia, the Agency shall not take into account the amount of that revenue when determining the number of points.

(4) The operator must notify the Agency, by 31 March each year, of the amount of the revenue for the previous year referred to in paragraphs two and/or three of the preceding paragraph. If the operator fails to fulfil this requirement within the required time, the Agency shall deem the operator's total annual revenue for the previous year, as obtained on the basis of data from the Agency of the Republic of Slovenia for Public Legal Records and Related Services, as the revenue referred to in paragraph two.

(5) If the Agency has reasonable doubt regarding the truthfulness of the data reported by an operator, the Agency or, where appropriate and proportionate in view of the size and complexity, a certified auditor (hereinafter: auditor) selected by the Agency in accordance with the Act governing public procurement, may review the data and estimate the revenue. The costs of the estimate shall be borne by the operator. If the estimated revenue deviates substantially from the reported revenue referred to in paragraph two of this Article, the Agency shall take into account the estimated revenue in calculating fees.

(6) In issuing the tariff referred to in paragraph two of this Article, the Agency shall take into account the necessary coverage of costs referred to in paragraph one of this Article as regards the planned objectives and tasks specified in the work programme of the Agency, and the balance of financial resources from the previous year. The tariff shall be published in the Official Gazette of the Republic of Slovenia, and shall enter into force after publication.

(7) The proposed tariff referred to in the preceding paragraph shall contain a special explanation giving the reasons for the adoption of or changes to the tariff, and the objectives sought, and shall be made public in advance not later than by 31 July of the current year together with a draft work programme and financial plan for the next calendar year in accordance with Article 269 of this Act. The Agency shall, not later than by 31 October of the current year, submit the proposed tariff to the Government of the Republic of Slovenia (hereinafter: Government) for approval, together with a work programme and financial plan for the next calendar year, and audited annual accounts for the previous calendar year. If the Government does not grant approval by 15 December of the current year, the existing tariff shall apply until the new one enters into force.

(8) Before the tariff is issued or changed, the costs referred to in paragraph one of this Article must be determined and projected, and a time limit must be set for the liable persons referred to in paragraph one of this Article to be called to submit their opinions, observations and proposals regarding the issue of or change to the tariff, which must not be shorter than 15 days nor longer than two months. During this period, mutual discussions may be held.

Article 7
(Assessment and payment of fees)

(1) The fees referred to in the preceding Article for an individual liable person shall be assessed by the Agency through a fee assessment decision.

(2) Fees shall be assessed in advance for the current calendar year.

(3) In the first calendar year in which the obligation of fee payment arises, the Agency shall assess the fee in the amount of as many twelfths of the annual fee as there are full months remaining from the onset of the obligation until the end of the year, but at not less than one-twelfth of the annual fee.

(4) With respect to the calendar year in which the public communications network and/or publicly available communications services ceased to be provided, the person liable shall pay the amount of fee equal to as many twelfths of the annual fee as there are full months during which such person provided the public communications network and/or publicly available communications services, but not less than one-twelfth of the annual fee. The Agency shall, at the request of the liable person, revise a fee assessment decision already issued and shall return any overpaid amount to the liable person within 30 days of service of the revised fee assessment decision.

Article 8
(Operators with special or exclusive rights)

(1) Operators with special or exclusive rights to provide other commercial activities and with annual revenue from electronic communications networks or services in excess of EUR 10 million shall be obliged to provide electronic communications networks or services through legally independent companies, or to keep separate financial accounts for activities associated with the provision of electronic communications services or networks, as if such activities were undertaken in a legally independent company.

(2) The separate accounting records referred to in the preceding paragraph shall be maintained in such a way as to define all the components of revenue and expenditure pertaining to activities related to the implementation or provision of electronic communications services or networks, as well as the basis for their calculation and the detailed allocation procedures applied, including an itemised breakdown of fixed assets and structural costs.

Article 9
(Supervision)

The Agency shall supervise the implementation of the provisions of this Chapter.

III. CONSTRUCTION OF NETWORKS AND ASSOCIATED INFRASTRUCTURE, AND PROMOTION OF CONNECTIVITY

Article 10
(Spatial planning, construction and maintenance)

(1) A public communications network and associated infrastructure shall be considered public service infrastructure. The ministry responsible for electronic

communications (hereinafter: Ministry) shall be the national spatial planning authority for the planning of public communications networks and associated infrastructure.

(2) The construction of public communications networks and associated infrastructure, the construction of electronic communications networks and the associated infrastructure for the purposes of security, police, defence, protection and rescue and disaster relief, as well as the construction of other electronic communications networks and the associated infrastructure on real estate owned by bodies governed by public law, constructed both above and below this real estate, shall be considered to be in the public interest.

(3) Local communities shall, within the scope of their powers, promote the construction of electronic communications networks and associated infrastructure and, where appropriate, cooperate with the Agency and the Ministry. They shall lay down, in particular, conditions for the construction of electronic communications networks and associated infrastructure in their spatial planning documents, shall conclude right of use and other contracts with operators on their infrastructure, shall notify operators and the Agency of intended future interventions in their existing infrastructure, and may plan the construction of open public communications networks.

(4) The maintenance of communications facilities that are parts of networks and associated infrastructure referred to in the preceding paragraph shall be considered maintenance work in the public interest in terms of building regulations, irrespective of the fact that they are not intended for the provision of public services. The following work on communications facilities shall be considered maintenance work in the public interest:

1. completion and upgrading of existing communications facilities and/or devices of electronic communications networks (for example installation or replacement of devices, including the replacement of overhead line supports, increasing capacity, drawing communications cables through existing pipes, reconstruction, relocation of devices and installations, protection and repairs);
2. static strengthening and replacement of existing antenna systems and their raising or lowering;
3. replacement of existing containers;
4. required earthing or expansion of existing earthing due to replacement of a container/tower, installation of lightning protection, mechanical installations, electrical installations and increasing the existing electrical supply power.

(5) The minister responsible for electronic communications (hereinafter: Minister) shall lay down, taking into account the complexity of construction, the types of simple communications facilities for which, in accordance with building regulations, no building permit is required, and shall define those works which, in addition to those referred to in the preceding paragraph, are considered maintenance of communications facilities.

(6) Where practically and technically feasible, and to protect the environment, public health and public security, and to limit unnecessary spatial developments, communications networks and associated infrastructure referred to in paragraph two of this Article must be constructed so as to enable their sharing.

(7) When building new multiple dwellings and non-residential buildings, the in-building physical infrastructure must be designed and constructed up to network termination points, and the inherent passive communications infrastructure in the shared parts of the building offering high-speed communications. The project design and construction phase of such infrastructure must envisage and establish a distribution point so as to enable individual operators to access each part of the (subscriber's) premises separately. The above shall also apply *mutatis mutandis* to the reconstruction of in-building physical infrastructure and/or

passive communications infrastructure. The cost of planning and construction of in-building physical infrastructure and passive communications infrastructure referred to in this paragraph shall be borne by the investor in the construction or reconstruction of a multiple dwelling or non-residential building.

(8) The obligation referred to in the preceding paragraph shall not apply to the construction or reconstruction of:
1. buildings with a total surface area not exceeding 50 m2,
2. non-residential agricultural buildings,
3. ceremonial buildings,
4. buildings protected for their special historical, cultural or architectural value, and
5. other buildings where the fulfilment of the obligations referred to in the preceding paragraph would entail costs disproportionate to the overall cost of the project.

(9) The Agency shall, by means of a general act, regulate in detail such technical and other issues as arise in the implementation of paragraphs seven and eight of this Article.

(10) The Agency shall, by means of a general act, define the locations of network termination points. In doing so, the Agency shall take utmost account of the BEREC guidelines.

(11) Subject to Articles 136 to 138 of this Act, a network operator may, at its own expense, install its network up to the distribution point.

Article 11
(Transparency regarding planned construction works)

The infrastructure operator must, not later than 60 days prior to the issuing of the order to produce the project documentation required to obtain a building permit or, when a building permit is not required, not later than 90 days prior to the foreseen commencement of construction works, inform the Agency of the intention to commence the planned construction and issue a call to interested investors in an electronic communications network and associated infrastructure in the joint planning or construction of the electronic communications network and associated infrastructure. The Agency shall, within three days of receipt of the call, publish on its website the investor notification of the commencement of project planning or works with appropriate calls to interested parties to respond to the call within the time limit set by the investor, and to inform the investor and the Agency of any interest. The time limit set may not be shorter than 10 days after publication.

(2) The obligation referred to in the preceding paragraph shall also apply to other investors in public communications networks and investors in other types of public service infrastructure who are not also infrastructure operators.

(3) The obligation referred to in the preceding paragraphs shall not apply to construction works of insignificant importance in terms of value, scope or duration.

(4) The notice of planned construction works referred to in paragraph one of this Article shall comprise information on:
1. the location and type of works,
2. the network elements,
3. the estimated date of commencement of works and their duration; and
4. the contact point.

(5) The network operator may request from the infrastructure operator the information referred to in the preceding paragraph for ongoing or planned works on physical infrastructure for which a building permit has already been issued or the procedure for obtaining a building permit is already underway or the application for a building permit is expected to be submitted within the next six months. The request shall identify the area to which deployment of the elements of the electronic communications networks relates. The infrastructure operator must provide the information under proportionate, non-discriminatory and transparent conditions within two weeks of receipt of the written request, unless the infrastructure operator has already made the information publicly available in electronic form or the information is accessible on the Agency's website in accordance with the first paragraph of this Article.

(6) In the event of a dispute concerning the rights and obligations referred to in this Article, the Agency shall, at the request of one of the parties, decide on the matter in accordance with the procedure laid down in Article 286 of this Act.

Article 12
(Joint construction)

(1) Notwithstanding the provisions of other regulations, infrastructure operators may enter into agreements with network operators to coordinate construction works for the purpose of deploying elements of electronic communications networks.

(2) Where the interest of interested co-investors in joint construction is expressed in accordance with the procedure referred to in paragraph one of the preceding Article, including the specification of technical and other conditions and a proposal for the sharing of costs, the liable persons referred to in paragraphs one and two of the preceding Article must offer these interested co-investors an appropriate contract, taking into account the proportionate share of their investment. If the investor and an interested co-investor fail to agree a contract and its contents within 30 days from when the interested co-investor notified the investor of their interest in joint construction, the Agency shall, at the request of one of the parties, decide on the matter under the procedure referred to in Article 286 of this Act, and, if appropriate, define the conditions of joint construction. The investor must provide cost evidence and justification for the construction prices, if requested by the Agency. The decision of the Agency must be objective, transparent, non-discriminatory and proportionate.

(3) Where one of the parties is an energy investor, the Agency shall, for the purpose of adopting a decision pursuant to the preceding paragraph, obtain in advance from the agency responsible for the energy sector information on the amount of eligible costs on the part of the energy investor.

(4) After an appropriate contract is concluded or the decision of the Agency referred to in paragraph two of this Article is enforceable, an investor in other types of public service infrastructure must plan their network so that, where technically feasible, electronic communications networks and associated infrastructure may be constructed simultaneously and in accordance with the interest expressed under the procedure referred to in paragraph one of this Article.

(5) In the case of the implementation of joint construction, the interested co-investor must notify the Agency not later than 30 days after the commencement of construction.

(6) The liable person referred to in paragraphs one and two of the preceding Article may refuse the request of the interested co-investor referred to in paragraph two of

this Article for an agreement on coordination of the construction works for the purpose of deploying the elements of the electronic communications networks, if:

1. it would result in additional costs for the construction works originally foreseen, including costs incurred due to additional delays caused by the coordination of the construction works,
2. it would hinder their supervision of the coordinated works,
3. the request to coordinate works is submitted less than 30 days before the application for a building permit is submitted or less than 30 days before the works are foreseen to start when a building permit is not required.

(7) The obligations of the infrastructure operator or other investor in public communications networks and of the investor in other types of public service infrastructure referred to in the preceding Article and in paragraphs two, four, five and six of this Article shall also apply to maintenance work for the public benefit on the communication facilities referred to in paragraph four of Article 10 of this Act, and to maintenance work for the public benefit, as laid down in the sectoral regulations for individual other infrastructures.

(8) Where the construction of the communications network and associated infrastructure referred to in paragraph two of Article 10 of this Act or of other public service infrastructure is financed from public funds from the state budget and municipal budgets, the investors must, in constructing such infrastructure, install vacant cable ducts of sufficient capacity if, according to the data from the records referred to in paragraph one of Article 15 of this Act, the foreseen construction site does not already contain such cable ducts and if the investor fails to obtain a co-investor referred to in paragraph one of this Article. The cable ducts so installed must be made available under the same conditions to all natural persons or legal entities providing electronic communications networks and associated infrastructure. The Agency shall, in a general act referred to in paragraph 10 of this Article, define what it considers to be empty cable ducts of sufficient capacity. The Agency may, by means of a general act, provide for exemptions from the obligation to lay empty cable ducts in cases where the imposition of an obligation on the investor would not be proportionate to the expected benefits of laying empty cable ducts.

Notwithstanding the preceding paragraph, a state authority or a self-governing local authority allocating public funds referred to in Article 20 of this Act may, in a public tender, specify different requirements for the laying of a free cable duct of sufficient capacity.

(10) The Agency shall issue a general act for the implementation of this and the preceding Article.

Article 13
(Relocation or alteration, and subsequent construction, of other installations)

(1) A network operator wishing to construct a public communications network and associated infrastructure may, in the request to establish a right of use, ask for the relocation or alteration of other existing installations, but only if the public communications network and associated infrastructure could not be built, and the other installations may be relocated or altered without negative consequences for their use, and if the sharing of installations under the conditions referred to in Article 136 of this Act is not possible.

(2) The costs of relocation or alteration of installations must be borne in full by the network operator that has requested relocation or alteration.

(3) Subsequent construction of other installations must be undertaken so as to avoid disruption to existing public communications networks and associated infrastructure.

Article 14
(Relocation and protection of existing communications networks)

(1) In the event that the construction of public utilities and other structures, facilities and installations requires the relocation or protection of the existing communications network and associated infrastructure referred to in paragraph four of Article 10 of this Act, where the infrastructure has been registered in the records referred to in paragraph one of Article 15 of this Act, the investor in the planned construction of public utilities and other structures, facilities and installations shall be obliged, no less than 30 days before the envisaged commencement of works, to provide notification of this to the owner of the communications network that needs to be relocated and protected, and enable the owner's authorised representative to be present and to perform technical monitoring of the performance of works. Otherwise the investor shall be responsible for any damage that may be sustained by the owner.

(2) The relocation and protection referred to in the preceding paragraph may, in agreement with the investor, also be carried out by the owner of the network referred to in the preceding paragraph, or by a contractor authorised by the owner.

(3) Notwithstanding the provisions of other acts, the costs of relocation or protection shall be borne by the investor in the construction of public utilities and other structures, facilities and installations, unless otherwise stipulated by contract between the investor in the construction of public utilities and other structures, facilities and installations, and the owner of the network referred to in paragraph one of this Article that is to be relocated and protected.

(4) Where the network and associated infrastructure referred to in paragraph one of this Article are not registered in the records referred to in paragraph one of Article 15 of this Act, the investor in the envisaged construction of public utilities and other structures, facilities and installations shall not be liable for any damages referred to in paragraph one of this Article and shall not bear the costs of relocation or protection, unless the owner of the network referred to in paragraph one of this Article proves that the investor knew of the existence of the network and the proposal for entry in the records has already been submitted.

Article 15
(Entry in records)

(1) The owner or the operator of the communications network and associated infrastructure referred to in paragraph two of Article 10 of this Act shall be obliged to provide information on the location and route, type and current use of the communications network and associated infrastructure, including the number of individual associated lines (optical fibre, copper pair, coaxial line, etc.) directly to the authority responsible for land surveying, for entry in the records of infrastructure networks and structures in accordance with the regulation governing such registration. Any change to such information shall be communicated to the competent authority within three months of such change.

(2) Notwithstanding the preceding paragraph, the obligation to provide information does not apply to the investors in a communications network and associated infrastructure for the purposes of security, the police, defence and protection, rescue and disaster relief, or their operator.

(3) In order to ensure transparency and the sharing of physical infrastructure, the Agency shall obtain the contact details of investors in or operators of the communications

network and associated infrastructure who communicated information to the authority responsible for mapping and surveying in accordance with paragraph one of this Article and publish them on its website.

(4) In addition to the information referred to in paragraph one of this Article, the investor in or operator of the communication network and associated infrastructure must, for the purpose of the entry in the records referred to in paragraph one of this Article submit directly to the authority responsible for mapping and surveying information on the current status and capacity of the network termination point at a fixed location in accordance with the regulation referred to in paragraph one of this Article. Any change to such information shall be communicated to the competent authority within three months of such change. Records relating to the existing status and capacity of the network termination point shall be public.

(5) In agreement with the minister responsible for infrastructure and the minister responsible for spatial planning, the Minister shall issue rules for the implementation of paragraphs one, four and seven of this Article.

(6) For the implementation of this Act, the Agency may, in application of Articles 265 and 266 of this Act, request the liable persons referred to in paragraph one of this Article to provide information on the availability of the networks and facilities referred to in paragraph one of this Article for which it maintains records, and may enable interested parties in relation to procedures it conducts to view such information. In doing so, the Agency may not request information which has already been sent by the liable persons to the authority responsible for mapping and surveying in accordance with paragraph one of this Article.

(7) The infrastructure operator shall also be obliged to report the information referred to in paragraph one of this Article for electronic communications networks not covered by paragraph two of Article 10 of this Act. The information shall be communicated directly to the authority responsible for mapping and surveying for entry in the register of infrastructure networks and facilities in accordance with the regulation governing entry in this register. Any change to such information shall be communicated to the competent authority within three months of the onset thereof.

Article 16
(Network operator access to information on existing physical infrastructure)

(1) If the information referred to in paragraphs one and three of the preceding Article are not available in the case of electronic communications networks, or the information on the location and route, type and current use of physical infrastructure and the point of contact in the case of other infrastructure operators, which are entered in the records of infrastructure networks and facilities in accordance with the regulation governing entry in these records, the network operator may request the infrastructure operator to provide access to this information. In its request, the network operator shall specify the area to which the deployment of the elements of the electronic communications networks relates.

(2) The infrastructure operator must grant access to data on proportionate, non-discriminatory and transparent terms within two months of receipt of the written request referred to in the preceding paragraph. It must provide information in the form requested for entry in the records of infrastructure networks and facilities in accordance with the regulation governing entry in these records.

(3) Notwithstanding the preceding paragraph, an infrastructure operator may refuse access to information where this is necessary for reasons of network security, national security, public health or safety.

(4) In a written request specifying the network elements to which the deployment of electronic communications networks relates, the network operator may ask the infrastructure operator to conduct an on-site inspection of certain elements of the physical infrastructure in the presence and under the professional supervision of an authorised person of the infrastructure operator. The infrastructure operator shall grant a reasonable request for inspection under proportionate, non-discriminatory and transparent conditions within 30 days of receipt of the written request, unless this is not appropriate for the reasons set out in the preceding paragraph.

(5) The network operator shall treat the information obtained pursuant to this Article in accordance with the regulations on classified information, the regulations governing the protection of business secrets and the regulations governing the protection of personal data, and shall take appropriate technical and organisational measures to protect confidentiality, secrecy and operational and business secrets.

(6) If the infrastructure operators fail to reach an agreement on access to information pursuant to this Article, the Agency shall, at the request of one of the parties, decide on the matter in accordance with the procedure laid down in Article 286 of this Act.

(7) The provisions of this Article shall also apply *mutatis mutandis* to data on unused optical fibres referred to in Article 140 of this Act.

(8) A competent public sector authority which, in the course of its work, has at its disposal the information referred to in paragraph one of this Article shall, upon request, provide the network operator with this information.

Article 17
(Electronic communications system buffer zone)

(1) An electronic communications system buffer zone shall consist of a strip of land alongside the communications conduits and communication facilities where other facilities and devices may only be built, and works that might affect the network operation may only be carried out, under specific conditions and at a certain distance from the conduits and facilities of this network.

(2) The width of the buffer zone of an electronic communications network shall be:
1. for a line facility three metres on each side of the axis of the line communications conduit,
2. for a polygon facility five metres on all sides of the outer edges of the area of the polygon communications facility, and
3. for a point facility 1.5 metres on all sides of the outer edges of the point communications facility.

(3) The conditions under which other facilities and devices in the electronic communications system buffer zone and conditions under which works may be carried out in the electronic communications system buffer zone shall be prescribed by the Minister in agreement with the minister responsible for the construction of structures and spatial planning.

Article 18
(Survey and announcement of network deployment)

(1) The Agency shall conduct and update the geographic survey of the reach of broadband networks in three year intervals. It shall take into account the information referred to in paragraphs one and four of Article 15 of this Act.

(2) At least every three years, the Agency shall publish a public call for enquiries into investors' intentions to build very high capacity networks or to upgrade or extend existing networks to provide speeds of at least 100 Mbps within a timeframe determined by the Agency, but no later than in three years.

(3) Considering its competencies laid down by this Act, the Agency shall decide to what extent it will take into account the information collected pursuant to the preceding paragraph.

(4) The Agency may, on the basis of the information referred to in paragraph one of this Article and the information collected on the basis of paragraph two of this Article, designate areas where a network with a speed of at least 100 Mbps is not envisaged within the time limit referred to in paragraph two of this Article.

Article 19
(Market interest enquires for the construction of high capacity networks)

(1) The authority allocating the public funds referred to in paragraph one of Article 20 of this Act shall submit an application to the Agency for a market interest enquiry to be carried out for the construction of high capacity networks or the upgrading or extension of existing networks offering a downlink of at least 100 Mbps over the next three years.

(2) The application referred to in the preceding paragraph shall contain at least information on:
1. the public co-investor,
2. the deadline by which the authority allocating the public funds needs the information,
3. the type of infrastructure or network for which the public funds are allocated,
4. the diameter of the cable duct or the diameter of the pipe in millimetres for the infrastructure or the data transfer rate in Mbps for the network for which the public funds are allocated,
5. the estimated time needed to build the infrastructure or network for which public funds are allocated, which shall not exceed three years, and
6. the geographical area for which the public funds are allocated.

(3) In the application referred to in paragraph one of this Article, the authority may specify that the notification announcing the construction must contain, in addition to the information referred to in the preceding paragraph, other information such as information on the planned project and a detailed construction timeline, evidence of the financial feasibility of the planned investment projects and the suitability of the envisaged technologies in relation to the objectives set, and any other annexes which will enable the investor to credibly demonstrate the feasibility of the market interest expressed.

(4) The authority referred to in paragraph one of this Article shall take into account, when determining the information referred to in paragraphs two and three of this Article, that the information must be at least of a similar level of detail as the information obtained by the Agency pursuant to the preceding Article.

(5) The Agency shall conduct a market interest enquiry referred to in paragraph one of this Article. When, on the basis of the data collected, the Agency identifies an

overlapping market interest of investors, it shall notify in writing the investors concerned and the authority referred to in paragraph one of this Article thereof.

(6) In the case referred to in the preceding paragraph, the investors may, within 30 days of receipt of the Agency's written notification, conclude an agreement aimed at avoiding the construction of duplicated infrastructure. This agreement shall comply with the rules governing the prevention of restriction of competition. The broadband network must be an open communications network in the areas for which the investors have agreed to divide the market interest, otherwise an agreement is not permitted.

(7) Investors who have agreed on the division of market interest in accordance with the preceding paragraph shall, within 15 days of the conclusion of the agreement, send to the Agency the updated information which may only cover the areas of divided market interest referred to in the preceding paragraph.

(8) If the investors fail to conclude the agreement referred to in paragraph six of this Article, the Agency shall inform the authority referred to in paragraph one of this Article thereof.

(9) The Agency shall communicate the information obtained to the authority which submitted the application within an agreed time limit, which may not exceed six months.

(10) The Agency shall publish on its website the information on the areas referred to in paragraph four of the preceding Article and the demonstrated intentions to deploy the networks referred to in paragraph two of the preceding Article and the demonstrated market interest on the basis of an inquiry referred to in paragraph one of this Article.

(11) The Agency shall issue a general act for the implementation of this and the preceding Article.

Article 20
(Use of public funds)

(1) Funding for the construction of high capacity networks, or the upgrading or extension of existing networks to allow data transfer rates of at least 100 Mbps, may also be provided from public funds in accordance with EU regulations on the compatibility of certain types of aid with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union.

(2) Public funds may also be provided to promote connectivity in accordance with the regulations referred to in the preceding paragraph.

(3) A state authority or a self-governing local authority allocating public funds for the construction of high capacity networks referred to in paragraph one of this Article shall take into account the information collected pursuant to paragraph one of Article 18 of this Act and the information on the announced deployment of networks collected pursuant to Articles 18 and 19 of this Act.

(4) The Government shall, by decree, lay down more detailed conditions for the application of this Article, such as the conditions for the use of public funds, eligible costs, the content of the application for public co-financing of a project, the method of setting the price of operator access to a co-financed network, and the establishment of a mechanism for monitoring and reimbursement of funds.

Article 21
(Market interest contracts)

(1) When the authority referred to in paragraph three of the preceding Article, on the basis of the information provided to it by the Agency pursuant to paragraph nine of Article 19 of this Act, finds that the investor did not credibly demonstrate the market interest in the notification referred to in paragraphs three and/or seven of Article 19 of this Act, it shall issue a decision not to recognise the market interest. This decision shall be final. An action against such decision may be filed in an administrative dispute.

(2) The authority referred to in paragraph three of the preceding Article shall, on the basis of the information provided to it by the Agency pursuant to paragraph nine of Article 19 of this Act, offer the investor a contract, whereby the investor undertakes to build a broadband network within three years of the signing of the contract, in the areas and to the extent demonstrated in the notification referred to in paragraphs three and/or seven of Article 19 of this Act. The authority shall send a copy of the signed contract and any related agreement referred to in paragraph six of Article 19 of this Act to the Agency. If the investor fails to sign the contract within 15 days, it shall be deemed that the investor withdrew from the expressed market interest. In this case, the authority shall issue the decision referred to in the preceding paragraph.

(3) The contract referred to in the first sentence of the preceding paragraph may provide for a contract penalty if the obligations referred to in the preceding paragraph are not fulfilled.

(4) If the operator fails to implement the market interest in accordance with the contract referred to in paragraph two of this Article and is more than six months late in carrying out the activities envisaged, the authority referred to in paragraph three of the preceding Article shall, as a result of the operator's breach, withdraw from the contract and disregard the market interest in this part, and shall inform the Agency thereof. The authority may request technical assistance from the Agency in verifying the implementation of the contract. As from the date of withdrawal from the contract for breach of contract by the operator, the operator shall be deemed not to have complied with the construction obligation referred to in paragraph two of this Article.

(5) If the investor fails to carry out the construction announced in a certain area within the time limit, the authority referred to in paragraph three of the preceding Article may use public funds referred to in the preceding Article for that area.

(6) When public funds are allocated on the basis of the preceding Article by a self-governing local authority, it may authorise the Ministry to conclude contracts on the basis of this Article on behalf of and for the account of the self-governing local authority.

Article 22
(Supervision)

The Agency, in cooperation with the inspector responsible for construction, shall monitor the implementation of the provisions of this Chapter, with the exception of Articles 21 and 22 of this Chapter, and regulations and acts issued on the basis thereof.

IV. EXPROPRIATION AND RESTRICTION OF THE RIGHT TO PROPERTY

Article 23

(Deprivation or restriction of the right to property or other property law rights in the construction of public communications networks)

(1) The construction, installation, operation or maintenance of public communications networks and associated infrastructure in accordance with regulations shall be in the public interest.

(2) Public communications networks must be planned so as to minimize encroachment on private property.

(3) The owner may be deprived of the right to property or other property law rights or the exercise thereof may be restricted in the public interest where necessary for the construction, installation, operation or maintenance of public communications networks and associated infrastructure.

(4) The owner shall be deprived of the right to property or other property law rights or the exercise thereof shall be restricted under the procedure and in the manner provided for by the Act governing the expropriation and restriction of the right to property, and the Act governing property law rights, unless otherwise stipulated by this Act.

(5) Notwithstanding the provisions of the Act governing the expropriation and restriction of the right to property, the Government shall, upon a proposal of a network operator to restrict the right to property or other property law rights of the Republic of Slovenia by the right of use for the purpose referred to in paragraph three of this Article, decide that the public interest in the construction, installation, operation or maintenance of public communications networks and associated infrastructure overrides other public interests, if the right of use is not established by contract in accordance with Article 27 of this Act. The Government shall impose on the manager of the real estate owned by the Republic of Slovenia the obligation to conclude a contract, or else shall reject the network operator's proposal.

(6) Network operators wishing to undertake works on, over or under private real estate as referred to in paragraph one of this Article may act in the expropriation procedure as the eligible expropriator, or in the procedure for establishing the right of use as the party with the right of use.

(7) The procedure for expropriation or for establishing the right of use for the benefit of network operators shall be conducted as an urgent procedure in terms of the Act governing the expropriation of real estate and restriction of the right to property.

Article 24
(Networks for the purposes of security, police, defence and protection, rescue and disaster relief)

The provisions of the preceding Article shall also apply to electronic communications networks and associated infrastructure for the purposes of security, the police, defence and protection, rescue and disaster relief.

Article 25
(Establishment of right of use of real estate owned by bodies governed by public law when building electronic communications networks other than public communications networks)

(1) The construction, installation, operation or maintenance of electronic communications networks other than networks referred to in Articles 23 and 24 of this Act and their associated infrastructure on real estate owned by bodies governed by public law in accordance with regulations shall be in the public interest.

(2) The electronic communications networks referred to in the preceding paragraph must be planned so as to minimize encroachment on the property of bodies governed by public law.

(3) The right to property or other property law rights of bodies governed by public law may be contingent on the right of use for the benefit of natural persons and legal entities providing electronic communications networks other than networks referred to in Articles 23 and 24 of this Act, where necessary in order to construct, install, operate and maintain such networks and associated infrastructure.

(4) In the cases referred to in the preceding paragraph, the right to property or other property law rights of bodies governed by public law shall be contingent on the right of use under the procedure and in the manner provided for by the Act governing the expropriation and restriction of the right to property, and the Act governing property law rights, unless otherwise provided by this Act.

(5) Natural persons or legal entities providing electronic communications networks other than the networks referred to in Articles 23 and 24 of this Act, and wishing to undertake works referred to in paragraph one of this Article on, over or under the real estate owned by bodies governed by public law, may act as the party with the right of use in the procedure to establish the right of use.

Article 26
(Right of use)

(1) A right of use under this Act shall be a right in rem which, for the party with the right of use referred to in Articles 23, 24 and 25 of this Act, comprises the following entitlements:

1. construction, installation, operation and maintenance of electronic communications networks and associated infrastructure;
2. access to electronic communications networks and associated infrastructure for the purposes of the operation and maintenance thereof;
3. removal of natural barriers in the course of construction, installation, operation and maintenance of electronic communications networks.

(2) The party with the right of use shall be obliged to exercise the entitlements referred to in the preceding paragraph so as to disturb the owner of the real estate and burden the land used only as far as is absolutely necessary. If the owner of the real estate suffers material damage in the exercise of such entitlements, the responsible party shall be obliged to reimburse the damage in accordance with the code governing contractual obligations.

Article 27
(Establishment of right of use)

(1) Right of use shall be established to the extent and for the period of time necessary for the construction, installation, operation or maintenance of the electronic

communications network and for the duration of operation of the electronic communications network and associated infrastructure.

(2) To establish the right of use, the party with the right of use must submit a draft contract to the owner of the real estate.

(3) The contract shall contain a mandatory provision on the amount of financial compensation for the right of use in cases referring to the restriction of the right to property or other property law rights in the construction, installation, operation or maintenance of public communications networks and associated infrastructure referred to in Article 23 of this Act, and on the permissibility of communications facility sharing by the party with the right of use and other natural persons and legal entities providing electronic communications networks in accordance with the provisions of this Act. The party with the right of sharing shall have, to the extent necessary for the implementation of shared use, the entitlements referred to in the preceding paragraph.

(4) The financial compensation referred to in the preceding paragraph shall not exceed the reduced value of the real estate used or actual damage, and loss of profits, including that arising from the permissibility of communications facility sharing by the party with the right of use and other natural persons and legal entities providing electronic communications networks, in accordance with the provisions of this Act, and restrictions imposed on the investor referred to in paragraphs one to three of Article 14 of this Act in relocating public communications networks.

(5) When the right of use is being established on real estate owned by the state or a self-governing local community, a provision on the permissibility of joint construction by another network operator in accordance with Article 12 of this Act shall be a mandatory component of the contract for the benefit of the network operator. The permissibility of joint construction shall apply only to construction on the same route as defined in the contract between the original investor and the owner of the real estate. In such cases, the contract must also contain a provision on the amount of financial compensation to be paid by the interested co-investor to the owner of the real estate in the event of joint construction. The amount of financial compensation may not exceed the amount of financial compensation paid by the original investor to the owner of the real estate.

(6) The provisions referred to in paragraphs two and four of this Article shall not apply when the right of use is established on the basis of a draft contract of an operator of other public service infrastructure which is subject to the establishment of the right of use in accordance with the acts governing public service infrastructure.

(7) Notwithstanding the provision of the third paragraph of this Article, and for the purpose of constructing public communications networks and associated infrastructure financed from public funds in accordance with Article 20 of this Act, the right of use of real estate owned by the state or by a self-governing local community shall be free of charge.

(8) If the owner of real estate does not agree to sign a contract within ten days of receipt of the draft contract, the party with the right of use may request that the right of use be established by a competent administrative authority in accordance with Articles 23, 24 and 25 of this Act.

(9) In addition to the elements laid down by the Act governing the establishment of the right of use for the purposes of construction, a clause on the permissibility of sharing by the network operator shall be a mandatory element of the contract establishing the right of use for the benefit of the infrastructure operator. The amount of financial compensation for the right of use shall also take into account the possibility of sharing the physical

infrastructure by the network operators. The amount of financial compensation in so far as it relates to the sharing of the physical infrastructure by the network operators may also be determined by means of an annex to the contract concluded no later than ten days before the commencement of sharing.

Article 28
(Conditions for decision-making by the competent authority)

(1) The competent administrative authority shall, in deciding on the establishment of the right of use, be obliged to determine and consider whether:
1. the establishment of the right of use is a necessary condition for the construction, installation, operation or maintenance of electronic communications networks and associated infrastructure,
2. the construction of the electronic communications network and associated infrastructure was planned so as to minimize encroachment on private property,
3. the exercise of the right of use will significantly hinder the owner of the real estate.

(2) The owner of the real estate shall be deemed significantly hindered under point 3 of the preceding paragraph when:
1. access to the real estate (to the land or structure thereupon) by the owner of such real estate is prevented or rendered substantially more difficult,
2. the performance of activities by the owner of the real estate is prevented or rendered substantially more difficult, or
3. the value of the real estate (land or structure thereupon) is substantially reduced.

Article 29
(Decision of the competent administrative authority)

(1) The competent administrative authority shall, by means of a decision, establish the right of use to such an extent and for such a period of time as is necessary for the construction, installation, operation or maintenance of the electronic communications network, and for the duration of operation of the electronic communications network and associated infrastructure. The decision establishing the right of use shall contain a mandatory provision on the permissibility of communications facility sharing by the party with the right of use and other natural persons and legal entities providing electronic communications networks in accordance with this Act.

(2) In addition to the elements laid down by the Act governing the establishment of the right of use for the purpose of construction of other public service infrastructure, a clause on the permissibility of sharing physical infrastructure by network operators shall be a mandatory element of the decision establishing the right of use for the benefit of the infrastructure operator.

Article 30
(Termination of right of use)

(1) The right of use shall terminate on the basis of an agreement between the two parties, or upon the expiry of the period for which it was established.

(2) The right of use may be terminated pursuant to a decision of the competent administrative authority if it is determined that:
1. at the request of one of the parties, the right of use is no longer required; or

2. at the request of the owner of the real estate, the eligible party failed within three years to begin exercising the right, unless reasonable grounds exist for such failure.

V. MANAGEMENT OF RADIO SEPCTRUM

1. **General provisions**

Article 31
(Management of radio spectrum)

(1) The radio spectrum is a limited natural resource with an important social, cultural and economic value.

(2) State authorities shall, in accordance with international treaties applicable in the Republic of Slovenia, ensure the efficient and undisturbed use of the radio spectrum of the Republic of Slovenia, and of the rights of the Republic of Slovenia to orbital positions. In doing so, they shall take into account the recommendations of the ITU.

(3) The Agency shall manage the radio spectrum of the Republic of Slovenia on the basis of public authorisation, while taking into consideration the strategic guidelines of the Ministry and the strategic documents of the Republic of Slovenia and the EU. The Agency shall draw up a spectrum management strategy for the period of at least three years and submit it to the Government for approval. After it is approved, the Agency shall publish the strategy on its website.

(4) In the event of cross-border harmful interference caused by the transmission of radio signals from other countries in contravention of the international treaties referred to in paragraph two of this Article, the Agency may adopt urgent and proportionate measures to protect the uninterrupted use of the radio spectrum in the Republic of Slovenia. Such measures shall include, in particular, an increase in the permitted transmitting power, a change in the antenna radiation pattern, a change in polarisation, a change in the height of the antenna above the ground and a change in the location of the transmission, provided that the coverage area is not thereby altered.

Article 32
(General principles of radio spectrum management)

The Agency and the competent state authorities promote harmonisation of the use of the radio spectrum for electronic communications networks and services in the EU to ensure efficient and effective use and consumer benefits such as increased competition, economies of scale and interoperability of networks and services. In accordance with Article 33 of this Act and in accordance with Decision 676/2002/EC, they shall *inter alia*:

1. strive for the coverage of the territory of the Republic of Slovenia and its population with high quality and fast wireless broadband connections and for the coverage of the main national and European transport routes, including the trans-European transport network as referred to in Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1),
2. promote the rapid development of new wireless communications technologies, including a cross-sectoral approach where appropriate,

3. ensure predictability and consistency in the issuance of radio frequency assignment decisions, their renewal, modification and revocation, with a view to encouraging long-term investment,
4. prevent harmful interference or cross-border harmful interference in accordance with Articles 33 and 39 of this Act and take appropriate measures to this end, including preventive measures,
5. promote radio spectrum sharing between similar or different uses of the radio spectrum in accordance with the rules governing the prevention of restrictions of competition,
6. envisage the use of the most appropriate and simplest systems for the assignment of radio frequencies in accordance with Article 39 of this Act, where such use ensures the maximum degree of flexibility, sharing and efficiency in the use of the radio spectrum,
7. apply rules for the assignment, renewal, transfer, modification and revocation of radio frequency assignment decisions that are clearly and transparently set out to ensure regulatory certainty, consistency and predictability,
8. strive for consistency and predictability in the use of the radio spectrum in order to protect public health in accordance with the rules governing electromagnetic radiation in the natural and living environment.

Article 33
(Strategic planning and harmonisation of radio spectrum policy and cross-border coordination of radio spectrum)

(1) The Agency and competent state authorities shall cooperate with the European Commission and the authorities of other EU Member States in strategic planning, cross-border coordination and harmonisation of the use of the radio spectrum in the EU in accordance with EU policies on the establishment and functioning of the internal market in electronic communications. In doing so, they shall take into account *inter alia* economic, security, health, public interest, freedom of expression, as well as cultural, scientific, social and technical considerations in relation to EU policies and the various interests of users of the radio spectrum, with a view to optimising use of the radio spectrum and avoiding harmful interference.

(2) The Agency and competent state authorities, in cooperation with the European Commission and the authorities of other EU Member States, shall promote the coordination of approaches to radio spectrum policy in the EU, and, where appropriate, harmonised conditions with regard to the availability and effective use of the radio spectrum that are necessary for the establishment and functioning of the internal market in electronic communications.

The Agency and the competent state authorities, within the framework of the Radio Spectrum Policy Group (hereinafter: RSPG), shall, in cooperation with other EU Member States and the European Commission in accordance with paragraph one of this Article, and, at their request, also with the European Parliament and the Council, in support of strategic planning and coordination of approaches to spectrum policy in the EU:
1. develop best practices on radio spectrum-related issues with a view to implementation of Directive 2018/1972/EU,
2. accelerate coordination between Member States in order to implement Directive 2018/1972/EU and other EU regulations and to contribute to the development of the internal market,
3. coordinate approaches to the assignment and granting of radio spectrum use, and publish reports or opinions on radio spectrum-related issues.

(4) The Agency and the competent state authorities shall cooperate with the competent authorities of other Member States and within the RSPG to ensure that Member

States are able to use the harmonised radio spectrum on their territory and to resolve any problems or disputes regarding cross-border coordination or cross-border harmful interference with other Member States or third countries which prevent the Republic of Slovenia or other Member States from using the harmonised radio spectrum on their territory. To this end, the Agency and the competent state authorities shall adopt the necessary measures, without prejudice to the obligations under international treaties in force in the Republic of Slovenia and governing the radio spectrum.

(5) The Ministry may ask the RSPG to intervene in solving problems concerning cross-border coordination or cross-border harmful interference. The Agency may submit a proposal to the Ministry for such request.

Article 34
(Radio frequency allocation plan)

(1) The Government shall by decree adopt a radio frequency allocation plan, laying down radio communications services in relation to radio frequency bands, the method of using radio frequency bands, and other issues relating to the use thereof.

(2) The technical basis for the draft decree referred to in the preceding paragraph shall be prepared by the Agency in accordance with international treaties governing the radio frequency spectrum that are in force in the Republic of Slovenia.

Article 35
(Radio frequency usage plan)

(1) The Agency shall, by means of a general act, adopt a radio frequency usage plan, which must be in accordance with the plan referred to in the preceding Article.

(2) The Agency shall, by means of a general act referred to in the preceding paragraph, specify the purpose of use and method of assignment of radio frequencies within radio frequency bands that are envisaged for individual radio communications services by the decree referred to in the preceding Article, and shall lay down technical parameters for the use of radio frequencies. In doing so, it shall specify cases of harmonised radio spectrum.

(3) The Agency shall adopt the general act referred to in paragraph one of this Article while taking into account the needs of national security and defence, protection against natural and other disasters, and air traffic safety and any additional needs of the ministry responsible for defence and the ministry responsible for internal affairs that may result from a situation of threat.

(4) The Agency shall adopt the general act referred to in paragraph one of this Article:

1. in the part relating to radio frequencies envisaged for the needs of national security and defence and protection against natural and other disasters, in agreement with the ministry responsible for defence, the ministry responsible for internal affairs, and the director of the Slovenian Intelligence and Security Agency,
2. in the part relating to radio frequencies envisaged for the needs of air traffic safety, in agreement with the ministry responsible for the protection of the environment, the ministry responsible for transport and the ministry responsible for defence.

Article 36

(Technology neutrality)

(1) All types of technology used for electronic communications services which comply with minimum technical requirements in accordance with the intended use of radio frequencies under the general act referred to in the preceding paragraph may be used in the radio frequency bands defined as available for electronic communications services in the plan referred to in Article 34 of this Act in accordance with EU regulations.

(2) Notwithstanding the provision of the preceding paragraph, the Agency shall, in the general act referred to in the preceding Article, provide for proportionate and non-discriminatory restrictions on the types of radio network or wireless access technology used for electronic communications services where this is necessary to:

1. avoid harmful interference,
2. protect public health against electromagnetic fields,
3. ensure the technical quality of service,
4. ensure maximisation of radio frequency sharing,
5. safeguard efficient use of the spectrum, or
6. ensure the realisation of a public interest objective in accordance with paragraph two of Article 37 of this Act.

(3) The Agency shall define the restrictions for reasons referred to in point 2 of the preceding paragraph on the proposal of the ministry responsible for the environment or the ministry responsible for health.

Article 37
(Service neutrality)

(1) The radio frequency bands defined as available for electronic communications services in the plan referred to in Article 34 of this Act may be used for all electronic communications services that comply with minimum technical requirements within the radio frequency bands as defined by the general act referred to in Article 35 of this Act.

(2) Notwithstanding the provision of the preceding paragraph, the Agency shall, in the general act referred to in Article 35 of this Act, provide for specific electronic communications services within an individual radio frequency band where, according to the Agency’s assessment, this is necessary to:

1. protect lives,
2. promote social, regional or territorial cohesion,
3. avoid inefficient use of radio frequencies, or
4. promote cultural and linguistic diversity and media pluralism through the assignment of radio frequencies for broadcasting.

(3) Notwithstanding the provisions of paragraphs one and two of this Article, the Agency shall, in the general act referred to in Article 35 of this Act, prohibit the provision of any other electronic communications services in a specific radio frequency band if it assesses this is necessary for the reason referred to in point 1 of the preceding paragraph.

Article 38
(Review of restrictions and measures relating to ensuring technology and service neutrality)

The Agency shall, at regular intervals of no longer than three years, review the necessity of the restrictions and measures referred to in paragraph two of Article 36 and

paragraphs two and three of Article 37 of this Act. The Agency shall publish the results of this review on its website.

Article 39
(Use of radio frequencies)

(1) Radio frequencies in the Republic of Slovenia shall be used on the basis of a general authorisation arising from the general act referred to in Article 35 of this Act, or pursuant to a decision assigning radio frequencies when the Agency, by means of the general act referred to in Article 35 of this Act, assesses this is urgently needed. In this regard, the Agency shall take into account the following:

1. avoidance of harmful interference,
2. specific characteristics of individual radio frequencies (e.g. as regards propagation of radio waves and expected transmission power levels),
3. conditions for spectrum sharing, where appropriate,
4. the need to provide the technical quality of communications or services,
5. safeguarding the efficient use of the spectrum,
6. fulfilment of public interest objectives in the assignment of radio frequencies for broadcasting.

(2) The general act referred to in Article 35 of this Act may also provide, where appropriate, for a combination of a general authorisation and the issuance of a decision on the assignment of radio frequencies for individual radio frequencies. In doing so, the Agency shall take into account the effects of the different combinations and of the gradual transition from one mode of use of radio frequencies to another on the development of innovative services and on ensuring competition in the market.

(3) In the general act referred to in Article 35 of this Act, the Agency shall specify in which radio frequency bands sharing is permitted, and shall also set the conditions for sharing. These shall promote efficient use of the radio spectrum, competition and innovation.

(4) Notwithstanding the provisions of paragraphs one and two of this Article, radio frequencies envisaged by the general act referred to in Article 35 of this Act for the needs of national security and defence and protection against natural and other disasters shall not be subject to a decision on the assignment of radio frequencies. Notwithstanding the above, the Agency shall also issue a decision on the assignment of radio frequencies in these cases at the request of the applicant.

(5) The Government shall, on the proposal of the minister responsible for defence, regulate the management and assignment of radio frequencies referred to in the preceding paragraph by means of a decree.

(6) The Agency shall prepare a review of the assigned radio frequencies that contains data on natural persons or legal entities that have been assigned specific radio frequencies, but that does not contain data on the radio frequencies referred to in paragraph four of this Article. Data from the review of the assigned radio frequencies shall be public. The Agency shall publish and regularly update the review of assigned radio frequencies.

Article 40
(Provision of amateur services)

(1) Radio amateurs may use the radio frequencies envisaged by the general act referred to in Article 35 of this Act for amateur and amateur-satellite services on the basis of a radio amateur licence.

(2) Foreign radio amateurs may use the radio frequencies referred to in the preceding paragraph provided they hold a valid radio amateur licence granted by the European Conference of Postal and Telecommunications Administrations (hereinafter: CEPT). A temporary licence may be issued by the Agency to foreign radio amateurs not holding a valid CEPT radio amateur licence by applying, *mutatis mutandis*, paragraphs three and four of this Article.

(3) The Agency shall issue the licence referred to in paragraph one of this Article under the provisions of the Act governing general administrative procedure on the basis of an application submitted by a radio amateur or society or an association of societies of radio amateurs. A radio amateur shall enclose with the application a radio amateur examination certificate. A society or an association of societies of radio amateurs shall enclose with the application proof of registration of the society or other legal entity pursuant to the act governing the organisation of societies.

(4) A radio amateur licence shall, in addition to the content envisaged by the act governing general administrative procedure, contain:
1. data on the radio amateur licence holder,
2. the assigned call-sign,
3. the amateur radio class, and
4. period of validity of the radio amateur licence.

(5) The Agency shall, by means of a general act, specify the method of implementation of this Article.

Article 41
(Use of jammers of radio communications services)

If so provided by law, state authorities may, for reasons of public interest, use in a narrowly defined area radio equipment which disrupts the operation of radio communications services.

2. **Procedure**

2.1 *Procedure for issuing decisions on the assignment of radio frequencies*

Article 42
(Procedure for issuing decisions on the assignment of radio frequencies)

(1) The Agency shall issue a decision on the assignment of radio frequencies in accordance with the general act on the radio frequency usage plan referred to in Article 35 of this Act under the provisions of the Act governing general administrative procedure and pursuant to a preliminary public tender where so provided by this Act. The procedures for the radio frequency assignment must be open, objective, transparent, proportionate and non-discriminatory.

(2) The decision shall be issued pursuant to a public tender when the procedure referred to in Article 47 of this Act establishes that the efficient use of a specific radio

frequency can only be ensured by restricting the number of decisions on the assignment of radio frequencies.

(3) Decisions on the assignment of radio frequencies for broadcasting and decisions on the assignment of radio frequencies for the provision of terrestrial wireless broadband electronic communications services and other publicly available communications services to end-users for the purpose of national coverage shall be issued on the basis of a public tender without implementing the procedure referred to in Article 47 of this Act. If the Agency receives an initiative for a public tender by a party interested in using available radio frequencies for broadcasting or radio frequencies for the provision of publicly available communications services to end-users, it shall, within 30 days, provide a written position regarding the initiative. In its position, the Agency must state whether it intends to publish a public tender for the radio frequencies referred to in the initiative or not, and explain its decision. If it accepts the initiative for a public tender, it must be carried out immediately. If the initiative is rejected because of the need for international harmonisation of the radio frequency, the Agency shall also explain the timetable for international harmonisation in its reply to the initiator. If the Agency needs to carry out additional checks or activities related to the international harmonisation of the radio frequency before replying, it may also reply to the initiator within a longer period of time, but not exceeding three months, and shall in such cases inform the initiator of the reasons and the longer period within 30 days of receipt of the initiative.

(4) Notwithstanding the provisions of the preceding paragraph, the Agency shall issue the decision on the assignment of the radio frequency referred to in paragraphs four and six of Article 66 of this Act without a public tender.

(5) Notwithstanding the provision of paragraph three of this Article, the Agency shall issue a decision on the assignment of radio frequencies for broadcasting to broadcasting service content providers without a public tender for the purposes of achieving public interest objectives in accordance with Article 86 of this Act.

(6) The Agency shall issue a decision on the assignment of radio frequencies to a natural person or legal entity selected through a transparent and open procedure (of the ministry or a local community) as the operator of the broadband network, built with budget funds, for the area in which such network has been built. The decision shall be issued pursuant to the Act governing general administrative procedure without implementing the procedure referred to in Article 47 of this Act.

Article 43
(Harmonised assignment of radio frequencies in relation to common selection procedures)

(1) Where use of certain radio frequencies was harmonised and access conditions and procedures agreed, and natural persons and legal entities to which the radio frequencies are to be assigned were selected in accordance with international agreements and EU regulations, such persons and entities shall acquire the right to use the radio frequencies concerned in the Republic of Slovenia on the basis of a decision issued pursuant to this Act.

(2) Where the general act referred to in Article 35 prescribes the use of radio frequencies pursuant to a decision on the assignment of radio frequencies, the Agency shall issue a decision on the basis of the provisions of the Act governing general administrative procedure without a preliminary public tender procedure. If in the selection procedure referred to in the preceding paragraph all the conditions prescribed for the assignment of these radio frequencies under this Act were met, the Agency shall not impose any further

conditions, additional criteria or procedures that would restrict, alter or delay the issue of a decision on the assignment of radio frequencies.

(3) Natural persons or legal entities that acquired the right in the Republic of Slovenia to use the radio frequencies referred to in paragraph one of this Article without a decision issued by the Agency, may only use these frequencies in accordance with the selection decision of EU institutions (hereinafter: the selection decision) and the EU regulation on the basis of which such decision was issued, and shall comply with all the requirements arising from such decision and regulation. The Agency must properly inform such persons and entities of their rights and the manner of exercising them in the Republic of Slovenia. In doing so, the Agency shall take into account the selection decision and the EU regulation on the basis of which it was issued.

(4) The Agency shall monitor and supervise the use of the radio frequencies referred to in paragraph one of this Article while taking into consideration EU regulations, including reporting to the European Commission, where so provided.

Article 44
(Common selection procedure)

(1) When the Agency receives an initiative for the assignment of radio frequencies within the framework of a joint assignment procedure with one or more other EU Member States, it shall initiate the procedure for the assignment of radio frequencies in accordance with the provisions of this Act. In doing so, it shall take into account the jointly agreed plan and the conditions set out in the joint authorisation procedure, *inter alia* that similar radio spectrum blocks are made available to those interested in the assignment. The Ministry may give the Agency guidance to initiate the procedure.

(2) Until the common selection procedure is carried out, the Agency must facilitate the involvement of other EU Member States in the procedure.

(3) When the Agency does not carry out a joint authorisation procedure, it shall inform the initiator of the reasons for such decision.

Article 45
(Coordinated timing of radio spectrum assignments)

(1) The Agency and other competent authorities cooperate with the competent authorities of other EU Member States to coordinate the use of the harmonised radio spectrum for electronic communications networks and services in the EU.

(2) For the harmonised radio spectrum for wireless broadband networks and services, the Agency shall carry out the procedure for the issuance of decisions on the assignment of radio frequencies as soon as possible after the entry into force of the technical implementing measures in accordance with Decision No 676/2002/EC, and in any case no later than 30 months after the entry into force of the technical implementing measures, or as soon as possible after the withdrawal of the decision on the admissibility of an alternative use as referred to in Article 48 of this Act.

(3) The Agency may, to the extent necessary for the reasons referred to in points 1 or 4 of paragraph two of Article 37 of this Act, postpone the procedure referred to in the preceding paragraph for individual radio frequencies in view of:

1. unresolved issues within the framework of cross-border coordination with third countries causing harmful interference, provided that the Republic of Slovenia has, where appropriate, previously asked the EU to assist in coordination,
2. national security and defence,
3. force majeure.

The Agency shall at regular intervals of no longer than two years review whether the postponement referred to in the preceding paragraph was justified.

(5) The Agency may postpone the procedure referred to in paragraph two of this Article for individual radio frequencies to the extent necessary and for a maximum period of 30 months in view of:
1. unresolved issues within the framework of cross-border coordination with other Member States causing harmful interference, provided that the Republic of Slovenia previously asked the RSPG for assistance,
2. the provision and complexity of provision of the technical migration of existing holders of decisions on the assignment of these radio frequencies.

(6) The Ministry shall notify other Member States and the European Commission of the postponement referred to in paragraph three of this Article or the postponement referred to in paragraph five of this Article. The notification shall state the reasons for postponement.

Article 46
(Issuing decisions on the assignment of radio frequencies)

(1) In addition to constituent parts provided by the Act governing general administrative procedure, an application to initiate a procedure to issue decisions on the assignment of radio frequencies must contain the data required by the Agency for keeping official records of holders of decisions on the assignment of radio frequencies and for supervising the use of radio frequencies, and in particular:
1. name, address and tax number for natural persons,
2. company name, registered office, tax number and indication of the legal representative for legal entities,
3. indication of the radio frequency to which the application refers and the intended use of such radio frequency,
4. statement of the geographical area to be covered by the radio frequency,
5. data on envisaged technical solutions, particularly data on the envisaged antenna system and radio equipment, and data required for the calculations of coverage and impact on other radio stations in terms of harmful interference and economy of utilization of the radio frequency.

(2) Where no public tender is required, the Agency shall be obliged to issue and send decisions on the assignment of radio frequencies to applicants within 42 days of receipt of an application, and to simultaneously record data on the assignment in the records of assigned radio frequencies referred to in paragraph six of Article 39 of this Act.

(3) Notwithstanding the provisions of the preceding paragraph, the Agency shall refuse, by means of a decision, to issue a decision on such assignment where it determines that:
1. the applicant has not settled all outstanding liabilities towards the Agency;
2. the assignment of radio frequencies would not comply with the acts referred to in Articles 34 and 35 of this Act,

3. the assignment of a radio frequency would not be consistent with efficient use of the radio spectrum,
4. the signal of radio equipment would cause unavoidable harmful interference to other radio equipment, receivers or electrical or electronic systems.

Article 47
(Obtaining views of interested parties)

(1) If the Agency considers that demand for particular radio frequencies could exceed their availability and thereby prevent their efficient use, it shall issue a public call to obtain the views of interested parties concerning the conditions of use of such radio frequencies, particularly regarding limiting the number of holders of decisions on the assignment of radio frequencies. The Agency shall at regular intervals of no longer than three years review the necessity of publishing a new public call. It shall always be obliged to publish such public calls whenever it receives an initiative for a public tender from an interested party in the use of specific radio frequencies.

(2) In the public call, the Agency shall define a time limit, which may not be shorter than 30 days, for interested parties to provide their views.

(3) If on the basis of the responses of interested parties and other relevant information available the Agency determines that specific radio frequencies will not be available to all interested parties, it shall be obliged to issue a public tender prior to issuing decisions on the assignment of radio frequencies. Otherwise, the Agency shall issue decisions on the assignment of radio frequencies under the provisions of the act governing general administrative procedure.

Article 48
(Alternative use of harmonised radio spectrum)

(1) The Agency may, by way of a decision, assign radio frequencies from the harmonised radio spectrum for which it finds, on the basis of a request for proposals in accordance with Article 269 of this Act or in a public tender procedure, that there is no interest in their use for harmonised services, for another purpose consistent with the general act referred to in Article 35, provided that such use does not prevent or hinder the availability or use of these radio frequencies in other EU Member States. In doing so, the Agency shall also take into account the future demand for those radio frequencies and the long-term availability or use of that radio spectrum in the EU, as well as the economies of scale for equipment resulting from the use of the harmonised radio spectrum in the EU.

(2) The Agency shall review every two years whether the alternative use is still in conformity with the preceding paragraph.

(3) The Agency shall carry out the review referred to in the preceding paragraph whenever it receives a reasoned request for the use of a band under harmonised conditions.

(4) The Agency shall notify the European Commission and the competent authorities of other Member States of the alternative use and the results of the review.

Article 49
(Application of provisions to public tender procedure)

(1) The provisions of the Act governing general administrative procedure, with the exception of the provisions on exclusion, shall not apply to the public tender procedure.

(2) Public tenders shall be managed by a special and impartial commission (hereinafter: commission) appointed by the director of the Agency (hereinafter: director), which may include persons not employed by the Agency.

(3) The provisions regarding the exclusion of official persons shall also apply to members of the commission if they are not official persons employed by the Agency.

Article 50
(Resolution on the initiation of a public tender)

(1) Public tenders shall be initiated by a resolution of the Agency, which must contain at least:

1. a precise statement of the radio frequencies to which the public tender applies, the radio communications services to be provided through the use of such radio frequencies, and the areas and/or locations where such radio frequencies are to be used,
2. the conditions, requirements and qualifications which tenderers must meet and which must comply with the relevant applicable legislation and spatial planning documents,
3. the selection criteria for most favourable tender, the method of their application, and other possible restrictions to be taken into account in the evaluation of tenders,
4. the minimum fee for efficient use of a limited natural resource and the method of payment thereof (i.e. one-off payment, instalments), unless the public tender applies to radio frequencies for analogue broadcasting,
5. the time limit for submission of tenders and the method of submission (i.e. date, time, address, marking on the envelope),
6. the address, place, date and time of the public opening of tenders,
7. the place, time and contact person from whom interested parties may obtain procurement documents, the cost of procurement documents, and the method of payment for such documents, or a link to the website where procurement documents are published,
8. the contact person from whom tenderers can obtain additional information,
9. the time limit for tenderer notification of the tender results (time limit by which decisions will be issued).

(2) The Agency shall, in creating tender conditions, requirements and qualifications, and the criteria referred to in points 2 and 4 of the preceding paragraph, endeavour to ensure that these conditions, requirements, qualifications and criteria foster competition, innovation, economic development, territorial coverage and high quality services, where appropriate, and efficient use of the radio spectrum.

(3) Where a public tender pertains to the assignment of radio frequencies for the provision of analogue broadcasting, the resolution must also contain the conditions and criteria for the selection of the most favourable tender in accordance with the Act governing the media. Following a written opinion of the Broadcasting Council, the conditions and criteria referred to in this paragraph shall be determined by the Agency in agreement with the ministry responsible for the media.

(4) The Agency shall obtain prior Government consent regarding the minimum fee for efficient use of a limited natural resource and the method of payment thereof.

(5) The Agency shall be obliged to publish a resolution, issued pursuant to paragraph one of this Article, in the Official Gazette of the Republic of Slovenia.

(6) The Agency may amend the resolution referred to in paragraph one of this Article, in which case it must also decide on an extension of the time limit for the submission of tenders with regard to the scope of changes made in the decision. All interested tenderers must be informed of any change in a non-discriminatory and transparent manner. The new resolution must be published in the Official Gazette of the Republic of Slovenia no later than seven days prior to the expiry of the time limit for the submission of tenders, as laid down in the resolution referred to in paragraph one of this Article.

(7) If provided for in the procurement documents, the Agency may, until the decision or decisions on the assignment of radio frequencies have been issued, revoke the resolution referred to in paragraph one of this Article. The Agency shall publish the resolution on revocation in the Official Gazette of the Republic of Slovenia.

Article 51
(Time limit for submission of tenders)

(1) The time limit for the submission of tenders must enable tenderers to prepare high quality tenders, it may not be less than 30 days, and shall start the day following publication of the resolution referred to in the preceding Article.

(2) Tenders submitted within the time period laid down in the public tender shall be deemed to have been submitted on time.

(3) The Agency must not accept any tender, or alteration, supplement or replacement thereof, arriving after the expiry of the time limit referred to in the preceding paragraph. If sent by post, such tender must be returned sealed to the sender.

(4) The Agency shall be obliged to protect the list of tenderers and tenders submitted as business secrets until the expiry of the time limit set for the opening of tenders.

Article 52
(Procurement documents)

In the procurement documents, the Agency shall clarify all points of the resolution to initiate the public tender and shall state the evidence demonstrating compliance with conditions that must be attached for tenders to be deemed valid.

Article 53
(Special provisions on public opening of tenders)

(1) The opening of tenders shall be public.

(2) The tender commission shall keep minutes on the tender-opening procedure, which must contain, in particular, data on the serial number of the tender, and if the tender is anonymous, data on the title or code of the tenderer and the tender price. Care must be taken throughout the procedure to prevent the disclosure of tenderers' business secrets.

(3) At the public opening of tenders, tenders shall be checked to ensure they contain all documents required by the procurement documents (formal completeness), at which time the authenticity and contents of the tender documents shall not be checked.

(4) Only correctly marked tenders delivered within the time limit set shall be opened. Incorrectly marked tenders shall be returned by the tender commission sealed to the sender.

(5) The public tender shall succeed if at least one timely and valid tender meeting the tender conditions is received.

(6) In the resolution initiating the public tender, the Agency may stipulate that an individual public tender shall succeed if another minimum number of tenders meeting the tender conditions is received.

Article 54
(Tender supplement)

(1) The commission shall, within five days of the opening of tenders, send a written request to tenderers with incomplete tenders to supplement them. The time limit for supplementing tenders may not be shorter than eight days or longer than 15 days. The contents of those parts of the tender subject to evaluation shall not be supplemented.

(2) Incomplete tenders which tenderers fail to supplement within the time limit referred to in the preceding paragraph shall be rejected.

Article 55
(Examination and evaluation of tenders)

(1) After completing the public opening of tenders, the commission shall first determine whether all documents in a tender meet the requirements of the law and procurement documents. Should the commission find that a tender does not meet the requirements of the law and the procurement documents, it shall exclude the tender from further procedure. The commission shall evaluate the remaining tenders in accordance with the tender criteria.

(2) After examining and evaluating the tenders received, the commission shall compile a report on the evaluation of individual tenders, and shall state which tender best meets the published selection criteria.

(3) Where a public tender pertains to the assignment of radio frequencies for the provision of analogue broadcasting, the commission shall send complete tenders and the report on their evaluation in accordance with the tender criteria to the Broadcasting Council. The Broadcasting Council shall examine the tenders received and the report on their evaluation and shall send a reasoned selection proposal to the Agency within 60 days of receipt of the tenders and the Agency's report.

(4) The commission and/or the Broadcasting Council may require tenderers to clarify their tenders, but in so doing they may not request, permit or offer any alterations or supplements whatsoever to the content of tenders.

(5) The commission and/or the Broadcasting Council shall be obliged in examining and evaluating tenders to take into consideration only those criteria for the selection of the most favourable tenderer as laid down by law and the procurement documents, in particular the efficient use of the radio spectrum and the promotion and protection of competition.

2.2 *Public auction*

Article 56
(Public tender for preparation of public auction)

(1) Where the tender price is the only criterion for the selection of the most favourable tender, the Agency may, in its resolution initiating the public tender, stipulate that a public auction shall be held after the completed public tender procedure.

(2) In the cases referred to in the preceding paragraph, the resolution initiating a public tender must also state:

1. radio frequencies subject to public auction, and possible restrictions on the number of rights of use of radio frequencies,
2. conditions and requirements individual tenderers must meet in order to qualify for the public auction, including the payment of an amount equal to the administrative costs of the Agency to hold the public auction, which is paid by bidders prior to the start of the public auction, and which shall in no instance be refunded to bidders who qualify for the public auction,
3. the minimum amount of the fee for efficient use of a limited natural resource (the starting bid) and the method of its payment,
4. detailed rules for the conducting of the public auction in accordance with the law.

(3) A public tender entailing an auction shall be deemed successful if at least two bidders qualify for the auction and there is excess demand for the subject-matter of the public tender.

(4) The Agency shall, in its resolution on selection of bidders, specify the time, place and form of the public auction. The public auction shall be conducted no earlier than 20 days and no later than 30 days after issuing the resolution on the selection of bidders. The Agency shall publish the time and place of the public auction on its website and in the Official Gazette of the Republic of Slovenia.

Article 57
(Form of public auction)

(1) The public auction shall be conducted by the president of the commission referred to in paragraph two of Article 49 of this Act.

(2) The public auction shall be conducted by direct oral bidding, by written bids or by electronic applications intended for electronic auctions.

(3) A public auction may also be held using any other appropriate method that enables the Agency official conducting the public auction and each bidder to follow the progress of the public auction directly and in real time, and enables the bidders to submit bids unhindered and directly to the official person.

(4) The minimum increment in the fee referred to in point 3 of paragraph two of the preceding Article at the auction may not be less than one percent of the starting bid.

(5) Before determining the highest bid and/or bids, bidders must be enabled at least once to offer a higher bid while giving their final highest bid or bids, failing which the existing bid or bids shall be established and, by means of a resolution, pronounced as the highest.

(6) The bidder or bidders with the highest bid or the highest combination of bids who have succeeded in the public action in accordance with the rules for the conducting of

the public auction referred to in point 4 of paragraph two of the preceding Article, shall be issued a written resolution indicating the amount to be paid for efficient use of a limited natural resource in accordance with those rules for the conducting of the public auction and the time limit by which they must make payment.

(7) In conducting the public auction and maintaining order, the president of the commission conducting the public auction shall have the powers of an official person in an administrative procedure related to conducting public hearings.

(8) If during the public auction, depending on the progress of the public action, the president of the commission determines that two or more bidders have agreed on the manner of bidding or the outcome thereof, and/or are coordinating their bidding, the president shall exclude such bidders from further participation in the public auction and issue a written resolution regarding such. Independent judicial protection against such a resolution shall not be allowed.

(9) If the public auction was held, those bidders who were successful at the public auction and, within the prescribed time limit, made payment for efficient use of a limited natural resource referred to in paragraph two of Article 60 of this Act, shall be deemed to have been selected in the public tender.

Article 58
(Electronic auction)

(1) Where a public auction takes place by electronic means intended for conducting electronic auctions, the provisions of paragraph three and five of the preceding Article shall not apply.

(2) The supervision of electronic auctions shall be carried out by the Court of Audit of the Republic of Slovenia.

Article 59
(Non-assigned radio frequencies)

If not all radio frequencies are assigned on the basis of the public auction, the Agency may, for the remaining radio frequencies, repeat the procedure referred to in Article 47 of this Act and/or, in the cases referred to in paragraph three of Article 42 of this Act, directly carry out a public tender.

2.3 *Procedure after public tender*

Article 60
(Application of the provisions of the Act governing general administrative procedure)

(1) On receipt of the commission’s tender evaluation report, the Agency shall continue to decide pursuant to the act governing general administrative procedure, whereby each tenderer that submitted a properly marked tender within the time limit laid down in the public tender has the status of a party.

(2) If the resolution initiating a public tender stipulates that a public auction is to be held after the completion of the public tender procedure, the administrative procedure shall only be initiated after the bidder or bidders that have been successful in the public auction

have paid the fee for efficient use of a limited natural resource or, with regard to the method of payment, have paid those instalments that must be paid, pursuant to the resolution referred to in paragraph six of Article 57 of this Act, prior to the issuing of the decision assigning radio frequencies.

Article 61
(Limitation of evidence)

(1) In an administrative procedure initiated after the public tender, it is not admissible to propose or provide evidence which should have formed a constituent part of the complete and appropriate tender, or which would modify the tender in any way.

(2) If the resolution initiating a public tender stipulates that a public auction is to be held after the completion of the public tender procedure, an oral hearing in an administrative procedure shall not be mandatory.

Article 62
(Selection of tenderers)

(1) The Agency shall decide on tenders by issuing one or more decisions on the assignment of radio frequencies. The Agency shall be obliged to issue and serve decisions within eight months of the expiry of the time limit for submission of tenders, and at the same time to inform the public of its decision.

(2) If the resolution initiating a public tender is revoked pursuant to paragraph five of Article 50 of this Act, the administrative procedure for the assignment of radio frequencies shall be stayed by means of a resolution.

Article 63
(Suspension of procedure)

The Agency may suspend the procedure to issue or amend decisions on the assignment of radio frequencies if additional harmonisation, investigation or activity is required in accordance with international treaties governing the radio frequency spectrum that are applicable in the Republic of Slovenia.

Article 64
(Content of decisions on the assignment of radio frequencies)

(1) The decision on the assignment of radio frequencies, in addition to the contents envisaged by the act governing general administrative procedure, shall in particular contain:
1. data on the holder of the right to use radio frequencies,
2. radio frequencies assigned,
3. area of coverage,
4. period of validity of the decision on the assignment of radio frequencies,
5. conditions to be met in the use of radio frequencies.

(2) In a decision assigning radio frequencies issued on the basis of a public tender, the conditions referred to in point 5 of the preceding paragraph must also include the conditions relating to points 5 and 7 of paragraph one of Article 65 of this Act.

(3) Where the decision pertains to the assignment of radio frequencies pursuant to a selection procedure referred to in paragraph one of Article 43 of this Act, the decision on the assignment of radio frequencies shall also contain additional elements required for the implementation of EU regulations, including the conditions arising from such selection decision and the EU regulation pursuant to which such decision was issued.

(4) Where the decision pertains to the assignment of radio frequencies for the provision of analogue broadcasting, the decision shall also contain the name of the channel.

(5) Holders of rights to use radio frequencies shall be obliged to report to the Agency any changes to the data referred to in point 1 of paragraph one of this Article, and any change to the name of the channel referred to in the preceding paragraph, within 30 days of such change.

(6) The Agency shall, by means of a general act, stipulate the method for delimiting areas of coverage referred to in point 3 of paragraph one of this Article when the decision pertains to the assignment of radio frequencies for the provision of analogue broadcasting.

(7) The Agency shall publish on its website decisions on the assignment of radio frequencies issued after the completed public tender procedure, with the exception of decisions on the assignment of radio frequencies for the provision of analogue broadcasting.

Article 65
(Conditions for the use of radio frequencies)

(1) The conditions referred to in point 5 of paragraph one of the preceding Article may only apply to:

1. the obligation to provide a service or to use a type of technology within the framework of restrictions referred to in Articles 36 and 37 of this Act, including, where appropriate, coverage and quality requirements,
2. ensuring the efficient use of radio frequencies,
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 authorisation,
4. duration of the right to use radio frequencies,
5. transfer of ownership of the right to use radio frequencies or leasing the right to use radio frequencies and conditions for such transfer or leasing;
6. payments under Article 73 of this Act,
7. additional obligations undertaken by the selected tenderer during participation in the public tender (for example, regarding the rate of construction of the electronic communications network, programme content and similar),
8. conditions for pooling or sharing of the radio spectrum or enabling access to the radio spectrum of other users in small geographic areas or the entire national territory,
9. obligations under international treaties applicable in the Republic of Slovenia relating to the use of radio frequencies,
10. special conditions laid down for the use of radio frequencies for the purposes of measurement, attestation and other testing of radio equipment,
11. conditions arising from the selection decision referred to in Article 43 of this Act and from the EU regulation on the basis of which such decision was issued.

(2) To ensure efficient and effective use of the radio spectrum or to improve coverage, the Agency shall promote the following sharing options and define the conditions for:

1. passive or active infrastructure sharing based on a radio spectrum or spectrum sharing,
2. commercial roaming access agreements,
3. joint deployment of infrastructure for the provision of networks and services based on the use of the radio spectrum.

(3) The Agency may issue a general act to implement the provisions of the preceding paragraph.

(4) When implementing the conditions referred to in the preceding paragraphs, holders of decisions on the assignment of radio frequencies must take into consideration regulations governing the prevention of restrictions of competition.

(5) The Agency shall, by means of a general act, specify the method for the use of the Radio Data System, identification method in the Digital Audio Broadcasting networks, and technical and operational conditions of modulation signals for analogue voice broadcasting stations.

Article 66
(Period of validity of decisions on the assignment of radio frequencies)

(1) The Agency shall issue decisions on the assignment of radio frequencies for a fixed period of time not longer than 15 years, taking into consideration the need to allow for an appropriate period for provision of competition, efficient and effective use of the radio spectrum, and promotion of innovation and effective investment, including an appropriate period for investment amortisation.

(2) Notwithstanding the provision of the preceding paragraph, the Agency shall issue decisions on the assignment of radio frequencies for an unlimited period of time for aeronautical or maritime mobile services.

(3) Notwithstanding the provision of paragraph one of this Article, the Agency shall issue a decision on the assignment of radio frequencies for the provision of wireless broadband electronic communications services for a period of 20 years. The Agency may adjust the duration of the rights of use referred to in this Article in order to ensure the simultaneous expiry of the duration of rights in one or more radio frequency bands.

(4) The Agency shall issue decisions on the assignment of radio frequencies for the purposes of measurement, attestation and other testing of radio equipment for a restricted area of coverage and for not more than 18 months, taking into consideration the envisaged entry into force of decisions on the assignment of radio frequencies issued pursuant to a public tender.

(5) Notwithstanding the provision of the preceding paragraph, the Agency shall issue decisions on the assignment of radio frequencies for analogue broadcasting for the purpose referred to in the preceding paragraph for a maximum period of 90 days.

(6) The Agency shall, as a rule, issue decisions on the assignment of radio frequencies intended for events for not more than 15 days, or for the envisaged duration of the event.

Article 67
(Extensions of decisions on the assignment of radio frequencies)

(1) The validity of a decision on the assignment of radio frequencies, with the exception of decisions referred to in paragraph three of the preceding Article, may be extended on the proposal of the holder thereof, provided that all conditions for the use of such radio frequencies in force at the time the decision expires have been met, with due consideration of the objectives set out in Articles 258 to 261 of this Act.

(2) If a decision on the assignment of radio frequencies is extended under the preceding paragraph, a defined fee for efficient use of a limited natural resource shall be paid for the radio frequencies originally assigned pursuant to a public tender, except for radio frequencies intended for analogue broadcasting, thereby ensuring optimal use of the assigned radio frequencies. Such fees shall constitute budget revenues. The amount of such fees and the method of their payment shall be fixed by the Agency, subject to prior consent from the Government. In determining the amount of fees and the method of payment thereof, consideration shall be given to the period by which the decision on the assignment of radio frequencies is to be extended, and to the supply of and demand for the tendered frequencies, the development of the market to which the tendered frequencies apply, and the level of such payments in other EU Member States, although in no instance may the amount be so high as to hinder the development of innovative services and market competition.

(3) Applications to extend decisions on the assignment of radio frequencies, except for radio frequencies intended for broadcasting, must be submitted to the Agency not less than 30 and not more than 120 days prior to the expiry of the decision on the assignment of radio frequencies. The Agency shall send notification of the expiry of the decision on the assignment of radio frequencies to the e-mail address communicated by the holder of the decision 120 days prior to the expiry of the decision on the assignment of radio frequencies. This notice shall be for information purposes, and shall have no legal consequences.

(4) Applications for the extension of decisions on the assignment of radio frequencies for broadcasting may be submitted to the Agency no more than five months prior to the expiry of the validity of such decisions. If the Agency does not receive from the holder an application for an extension of the decision on the assignment of radio frequencies for broadcasting 120 days prior to the expiry of such decision, it shall be obliged, by means of a letter, to warn the holder of the expiry of the decision and the legal consequences thereof if no application for an extension of such decision is submitted within 60 days of the service of such letter on the holder. The holder of the decision on the assignment of radio frequencies for broadcasting shall submit an application for an extension of such decision to the Agency not later than 60 days after the service of the Agency's letter on the holder.

(5) Where an extension is granted, the Agency shall issue a new decision on the assignment of radio frequencies.

(6) The validity of decisions on the assignment of radio frequencies for the purposes of measurement, attestation and other testing of radio equipment, and of decisions on the assignment of radio frequencies intended for events, may not be extended.

Article 68
(Extensions of decisions on the assignment of radio frequencies for broadband electronic communications services)

(1) The validity of the decision on the assignment of radio frequencies referred to in paragraph three of Article 66 of this Act may be extended, unless the possibility of extension was excluded at the time of the assignment of the radio frequencies. The validity of the decision may be extended on the proposal of the holder. The holder of a decision on the

assignment of radio frequencies may submit an application for an extension to the Agency at the earliest five years before the expiry of its validity.

(2) If the Agency initiates a procedure for the extension of a decision on the assignment of radio frequencies referred to in the preceding paragraph, it shall hold a public consultation in accordance with Article 269 of this Act to determine the demand for the radio frequencies subject to the extension. The public consultation shall also cover any modification of the conditions referred to in Article 65 of this Act. The Agency shall also state the reasons for the extension of the decision on the assignment of radio frequencies and propose a minimum fee for efficient use of a limited natural resource and the method of payment thereof.

(3) When deciding on the renewal of a decision on the assignment of radio frequencies, the Agency shall take into account, *inter alia*:

1. the fulfilment of the objectives referred to in Articles 32, 42 and 258 to 262 of this Act and public policy objectives in accordance with EU law,
2. the implementation of the technical implementing measure adopted pursuant to Decision 676/2002/EC,
3. irregularities identified in the course of supervision as regards compliance with the conditions laid down in the decision on the assignment of radio frequencies,
4. the need to promote competition or prevent distortion of competition in accordance with Article 74 of this Act,
5. the need to increase the efficiency of the use of the radio spectrum due to technological or market development,
6. the need to prevent serious interference with the provision of services.

(4) In deciding whether to extend the validity of a decision on the assignment of radio frequencies, the Agency shall take into account any evidence arising from the public consultation referred to in paragraph two of this Article that there is demand in the market from persons other than the holders of decisions on the assignment of radio frequencies in the band which is the subject of the decision being extended.

(5) Where an extension is granted, the Agency shall issue a new decision on the assignment of radio frequencies for not less than five years and not more than 20 years. If appropriate, the conditions for the use of radio frequencies shall be adapted in the new decision. The Agency shall conduct a public consultation on significant adaptations of the conditions in accordance with Article 269 of this Act.

(6) In accordance with paragraph nine of Article 73 of this Act, a fee for efficient use of a limited natural resource ensuring optimal use of assigned radio frequencies shall be paid.

Article 69
(Transfer or lease of right to use radio frequencies)

(1) The holder of a decision on the assignment of radio frequencies may transfer by legal transaction their right to use such radio frequencies to another natural person or legal entity, or may lease such right to another natural person or legal entity that meets the prescribed conditions, but only with the prior consent of the Agency. The Agency shall check that the other natural person or legal entity meets the conditions prescribed by law, implementing regulations or an act of the Agency, and shall ensure that the envisaged transaction does not result in distortion of competition, particularly where the spectrum is left unused. The Agency may refuse to transfer or lease the right if there is a clear risk that the new holder will not be able to comply with the original conditions for the right of use. When

the right is leased, the lessor shall assume the responsibility for meeting the original conditions.

(2) Notwithstanding the provision of the preceding paragraph, a holder of a decision on the assignment of radio frequencies that acquired the right to use such radio frequencies without payment of the fee referred to in paragraph nine of Article 73 of this Act, except in the case of radio frequencies for analogue broadcasting, may not transfer by legal transaction, or lease, the right to use such radio frequencies to another natural person or legal entity.

(3) Notwithstanding the provision of paragraph one of this Article, a holder of a decision on the assignment of radio frequencies against whom the Agency conducts a procedure to revoke the decision on the assignment of radio frequencies pursuant to point 3 of paragraph three of Article 71 of this Act, may not transfer by legal transaction, or lease, the right to use radio frequencies which are the subject-matter of the procedure to any other natural person or legal entity.

(4) In the event of the transfer of the right to use radio frequencies to another natural person or legal entity in accordance with paragraph one of this Article, the Agency shall issue to such natural person or legal entity a new decision on the assignment of radio frequencies under the provisions of the act governing general administrative procedure.

(5) The designated use of radio frequencies harmonised with EU regulations may not be changed through the transfer of the right to use radio frequencies.

(6) The conditions referred to in Article 65 of this Act contained in a decision on the assignment of radio frequencies issued pursuant to a public tender may be changed only with the prior consent of the Agency.

(7) The Agency shall publish on its website relevant information on the right of use of radio frequencies which may be transferred or leased.

Article 70
(Amendment of decisions on the assignment of radio frequencies)

(1) The Agency may amend a decision on the assignment of radio frequencies *ex officio* or on the proposal of its holder.

(2) A decision on the assignment of radio frequencies may be amended *ex officio* if:

1. the distribution of radio frequency bands or use of radio frequencies changes,
2. there is public demand that cannot otherwise be met,
3. so required for efficient use of the radio spectrum in the public interest,
4. harmful interference cannot otherwise be avoided, or radio frequency protection ratio is not achieved,
5. so required by international treaties applicable in the Republic of Slovenia relating to radio frequencies,
6. the name of holders of decisions on the assignment of radio frequencies, or the name of the channel, changes;
7. so required in order for holders of decisions on the assignment of radio frequencies to link into wider regional or national radio or television programming networks registered with the competent authority in accordance with the Act governing the media,
8. so required for the implementation of EU regulations relating to electronic communications.

(3) Amendment of a decision on the assignment of radio frequencies on the proposal of its holder shall only be possible within the framework of the area of coverage under such decision, in such a manner that it does not encroach upon the rights of others, and under the conditions of this Act. Where a decision on the assignment of radio frequencies for the provision of broadcasting is amended, amendment is also possible outside the area of coverage, provided that such amendment of the decision on the assignment of radio frequencies provides for more efficient use of radio frequencies and does not impinge upon the benefits of other holders of decisions on the assignment of radio frequencies, provided that the conditions under this Act are met.

(4) The decision on the assignment of radio frequencies must not be amended on the proposal of the holder of the right to use radio frequencies if such holder is subject to a procedure to revoke a decision on the assignment of radio frequencies under point 3 of paragraph four of Article 71 of this Act.

(5) In the case of an amendment to the decision on the assignment of radio frequencies, the Agency shall issue a new decision on the assignment of radio frequencies and shall revoke the previous one. In the new decision, the Agency may also stipulate the scope and time limit of the adaptation. In cases referred to in paragraph two of this Article, the Agency may revoke the decision on the assignment of radio frequencies in its entirety, replacing it with a new decision and stipulating new content.

(6) By the decision referred to in the preceding paragraph, the Agency may exceptionally extend the validity of a decision on the assignment of radio frequencies, except a decision on the assignment of radio frequencies for the provision of terrestrial wireless broadband electronic communications services to end-users, if the costs of adjustment referred to in the preceding paragraph impinge disproportionately upon the benefits held by the holder of a decision on the assignment of radio frequencies.

(7) The holder of an amended decision on the assignment of radio frequencies shall have the right to be assigned other comparable radio frequencies that technologically enable the provision of equivalent services, if the holder was not at fault with regard to the grounds for the amendment. Radio frequencies with an equivalent area of coverage shall be assigned by decision under an administrative procedure without a public tender.

(8) The holder of an amended decision on the assignment of radio frequencies for the provision of broadcasting referred to in the preceding paragraph shall have the right to be assigned additional radio frequencies in the area of coverage under the amended decision if services of the expected quality cannot be provided in equivalent radio frequencies due to reception interference. Additional radio frequencies shall be assigned by decision under an administrative procedure without a public tender.

(9) The holder of a decision referred to in the preceding paragraph shall not be obliged to pay an annual fee for additional radio frequencies to the Agency for the use of the assigned radio frequencies.

Article 71
(Revocation of decisions on the assignment of radio frequencies)

(1) The Agency may revoke a decision on the assignment of radio frequencies either on the proposal of the holder of the decision on the assignment of radio frequencies or *ex officio*.

(2) The Agency shall be obliged to initiate *ex officio* a procedure to revoke a decision on the assignment of radio frequencies intended for the provision of analogue broadcasting if so proposed by the Broadcasting Council.

(3) The Agency shall revoke a decision on the assignment of radio frequencies *ex officio* if it determines that:

1. the application for the decision on the assignment of radio frequencies contained false data,
2. the holder no longer meets the prescribed conditions pursuant to applicable legislation or to its decision on the assignment of radio frequencies,
3. the holder fails to start using the radio frequency within the time limit laid down in the decision on the assignment of radio frequencies and/or the operator's tender in the public tender, and/or within one year if the time limit for the commencement of use is not defined in the decision on the assignment of radio frequencies and/or in the operator's tender in the public tender, or the assigned radio frequency for the provision of broadcasting was not used in a period of six months during at least six random checks, unless otherwise stipulated by the decision or the holder provides written evidence that this is not the case,
4. the holder transferred the right to use radio frequencies, by legal transaction in accordance with paragraph one of Article 69 of this Act, to another natural person or legal entity,
5. it is not otherwise possible to prevent the radio equipment signals causing harmful interference to other radio equipment, receivers or electrical or electronic systems,
6. fees for the use of radio frequencies and/or the fee for efficient use of a limited natural resource have not been paid within 30 days of a written warning from the Agency,
7. there are other serious or repeated irregularities related to meeting the conditions for the use of radio frequencies referred to in Article 65 of this Act that were stated in the decision on the assignment of radio frequencies, if such irregularities have not been eliminated by more lenient measures in a supervisory procedure.

Article 72
(Termination of decisions on the assignment of radio frequencies)

(1) A decision on the assignment of radio frequencies shall cease to apply *ex lege*:

1. on the expiry of the time limit for which it was issued,
2. if the decision holder ceases to exist,
3. when a vessel or an aircraft is written off or sold in the case of radio frequencies intended for aeronautical or maritime mobile service,
4. through revocation of a licence to perform radio and television activities issued under the procedure and conditions laid down in the Act governing the media.

(2) In instances referred to in points 2–4 of the preceding paragraph, the Agency shall issue a declaratory decision. In the case referred to in point 3 of the preceding paragraph, the Agency shall issue a declaratory decision when it receives a notification of a vessel or an aircraft written off or sold.

Article 73
(Fees for the use of radio frequencies)

(1) Holders of decisions on the assignment of radio frequencies shall pay an annual fee to the Agency for the use of assigned radio frequencies. Fees shall cover the costs incurred by the Agency in managing and supervising the radio spectrum.

(2) The Agency shall prescribe by general act the method of calculating fees pursuant to this Article. Such calculation shall depend on the coverage or population density in the area of coverage, or radio frequency, or the radio bandwidth, or type of radio communication, or any combination thereof, but it may not restrict competition or create barriers to market entry.

(3) Holders of radio amateur licences referred to in Article 40 of this Act shall not be obliged to pay an annual fee referred to in paragraph one of this Article. The Agency shall, by means of the general act referred to in the preceding paragraph, determine the amount of the one-off payment to be made by radio amateur licence holders upon the issue of the licence and shall cover the costs incurred by the Agency in managing and supervising the part of the radio spectrum intended for amateur and amateur-satellite services.

(4) The Agency shall determine the amount of the fee referred to in paragraphs one and two of this Article by means of a tariff, giving due consideration to the necessary coverage of the costs referred to in paragraph one of this Article and applying *mutatis mutandis* paragraphs four, five and six of Article 6 of this Act. In determining the amount of the fee, the Agency shall take into consideration the general act referred to in paragraph two of this Article and in force on the date of issue of the Government’s consent to the tariff for the next calendar year.

(5) Article 7 of this Act shall apply to the assessment and payment of fees for the use of radio frequencies.

(6) Notwithstanding the provision of paragraph two of Article 7 of this Act, a lump sum payment shall be levied for the use of radio frequencies for the purposes referred to in paragraphs four to six of Article 66 of this Act, in the amount of as many twelfths of the annual fee as there are full months in the time period for which the decision on the assignment of radio frequencies is valid, but not less than one-twelfth of the annual fee.

(7) Notwithstanding the provision of paragraph four of Article 7 of this Act, a person liable whose right to use radio frequencies ceased due to the expiry of the time period for which it was granted, or for reasons beyond the person's control, shall be obliged to pay for as many twelfths of the annual fee as the number of full months for which such right was held, but not less than one-twelfth of the annual fee.

(8) Notwithstanding the provision of paragraph one of this Article, national authorities that are holders of a decision on the assignment of radio frequencies for the purposes referred to in paragraph four of Article 66 of this Act and/or national authorities that are holders of a decision on the assignment of radio frequencies envisaged by the general act referred to in Article 35 of this Act for the purposes of national security and defence, and protection against natural and other disasters, shall not be liable for payment of the annual fee referred to in paragraph one of this Article.

(9) A certain fee for efficient use of a limited natural resource ensuring the optimal use of the assigned radio frequencies shall be paid for all radio frequencies assigned pursuant to a public tender, except for radio frequencies for analogue broadcasting. Such fees shall constitute state budget revenues. The minimum amount of such fees and the method of their payment shall be determined in the resolution initiating the public tender procedure, which may also provide for the possibility of payment in instalments taking into account the expected start of use of the assigned radio frequencies. In determining the level and/or minimum amount of fees and the method of payment thereof, due consideration shall be given to the economic and technical situation on the market to which the tendered frequencies apply, and the level of such fees in other EU Member States, market competition, including the possibility of an alternative use of the tendered radio frequencies,

and potential costs incurred by a selected tenderer in meeting the requirements of a public tender.

(10) The amount for efficient use of a limited natural resource referred to in the preceding paragraph shall also be paid for radio frequencies for the provision of terrestrial wireless broadband electronic communications services and other publicly available communications services to end-users for local coverage, which the Agency granted on the basis of an application and under the conditions laid down in paragraph three of Article 47 of this Act. (4) The Agency shall obtain prior Government consent regarding the minimum fee for efficient use of a limited natural resource and the method of payment thereof.

3. **Competition**

Article 74
(Accumulation of radio frequencies for the purpose of restricting market competition)

Operators must not accumulate radio frequencies for the purpose of restricting competition in the radio communications market. Such conduct is particularly evident from the fact that the operator does not use radio frequencies within the scope and time limits laid down in the decision and/or operator's tender in the public tender, and there are no objective grounds which the operator could not have influenced and/or which the operator could not have foreseen at the time of granting the decision, or it is clear from the operator's conduct that the radio frequency was acquired with the purpose of restricting market competition.

Article 75
(Competition)

(1) In procedures under Articles 42, 67, 68, 70 and 71 of this Act, the Agency shall promote effective competition and avoid distortion of competition in the internal market. In doing so, the Agency shall cooperate with the authority responsible for the protection of competition.

(2) For the application of the preceding paragraph, the Agency may, *inter alia*:

1. limit the number of radio frequencies per holder of a decision on the assignment of radio frequencies or, where appropriate, lay down conditions for the use in the decision on the assignment of radio frequencies, such as the provision of wholesale access, national or regional roaming in certain radio frequency bands or groups of bands with similar characteristics,
2. reserve a certain part of a radio frequency band or group of bands for assignment to new market participants,
3. refuse to grant new rights of use for the radio spectrum or to allow new use of the radio spectrum in certain bands or attach conditions to granting new rights of use of the radio spectrum, in order to avoid the distortion of competition by any assignment, transfer or accumulation of rights of use,
4. prohibit transfers of rights of use of radio frequencies not subject to merger control in the Republic of Slovenia or at the level of the EU, or lay down conditions for merger where such transfers are likely to result in significant harm to competition,
5. amend or repeal a decision on the assignment of radio frequencies where this is necessary to remedy a distortion of competition by any transfer or accumulation of rights of use for radio frequencies referred to in the preceding paragraph.

(3) The Agency shall base its decisions referred to in the preceding paragraph on an objective and forward-looking assessment of the market competitive conditions, of whether such measures are necessary to maintain or achieve effective competition, and of the likely effects of such measures on existing and future investments by market participants in particular for network roll-out. In doing so, it shall take into account the approach to market analysis referred to in paragraph four of Article 146 of this Act.

(4) When implementing measures referred to in paragraph two of this Article, the Agency shall take into consideration the objectives referred to in Articles 258 to 261 of this Act and, if applicable, an opinion of the peer review forum in accordance with Article 278 of this Act.

4. **Procedure**

Article 76
(Small-area wireless access points)

(1) Notwithstanding the provisions of other regulations, a prior permit shall not be required for deployment of small-area wireless access points referred to in Commission Implementing Regulation (EU) 2020/1070 of 20 July 2020 on specifying the characteristics of small-area wireless access points pursuant to Article 57 paragraph 2 of Directive (EU) 2018/1972.

(2) Operators shall have the right to access, on transparent, fair and non-discriminatory terms, physical infrastructure owned or operated by public sector persons, as defined in the Act governing public employees, which is technically suitable for the deployment of small-area wireless access points or is required in order to connect such access points with the backbone network, including transport equipment such as light poles, traffic signalling and bus stops. The terms and conditions of access shall be published on the website of the information system supporting business entities. If no agreement on the terms and conditions of access is reached within two months of receipt of a request for access, or if the owner or operator of the physical infrastructure refuses access, the Agency shall, at the request of one of the parties, decide on the dispute in accordance with the procedure referred to in Article 286 of this Act.

(3) The provision in the preceding paragraph shall not apply to physical infrastructure for the purposes of security, police, defence and protection, rescue and disaster relief.

(4) The provisions of this Article shall be without prejudice to the regulations laying down conditions for deployment of equipment and/or devices in buildings or in places of architectural, historical or natural value.

Article 77
(Access to radio local area networks)

(1) Access to public communications networks via radio local area networks using the harmonised radio spectrum shall not be subject to a decision on the assignment of radio frequencies.

(2) A natural person or legal entity that does not provide the access referred to in the preceding paragraph as part of a commercial activity or provides it as an ancillary activity to a public service shall not be subject to the obligations relating to the rights of end-users

laid down in Chapter XI of this Act or to the obligations of interconnections in accordance with paragraph four of Article 130 of this Act.

(3) The provisions on the responsibilities of the provider of exclusive transmission services laid down in the Act governing electronic commerce shall apply to the transmission of data in public electronic communications networks via radio local area networks.

(4) Operators may provide access to their networks via radio local area networks, including those located at the premises of end-users, subject to the end-user's prior consent.

(5) Operators shall not unilaterally restrict or prevent end-users from accessing radio local area networks of their choice provided by third parties, or from allowing reciprocally or, more generally, accessing of the networks of such providers by other end-users through radio local area networks, including on the basis of third-party initiatives which aggregate and make publicly accessible the radio local area networks of different end-users.

(6) On the basis of third-party initiatives which aggregate and make the radio local area networks of different end-users publicly accessible, end-users may allow access, reciprocally or otherwise, to their networks by other end-users.

(7) Public sector bodies, as defined in the Act governing public employees, may provide public access to radio local area networks on their premises or in public spaces close to their premises, provided that such provision is ancillary to the public services they provide on their premises.

(8) Non-governmental organisations and public sector bodies referred to in the preceding paragraph must not be unduly restricted in aggregating and making reciprocally or more generally accessible the radio local area networks of different end-users, including, where applicable, the radio local area networks to which public access is provided in accordance with the preceding paragraph.

Article 78
(Supervision and construction of the supervision and measurement system)

(1) The Agency shall supervise the implementation of the provisions of this Chapter and compliance with decisions issued on its basis.

(2) The Agency shall establish and construct the supervision and measurement system of the Republic of Slovenia for the purposes of managing and monitoring the radio frequency spectrum.

(3) The construction referred to in the preceding paragraph shall be in the public interest.

VI. DIGITAL BROADCASTING

Article 79
(Network planning)

(1) Deployment of a network shall be planned by an operator of a multiplex system in accordance with the conditions laid down in the decision on the assignment of radio frequencies for a multiplex system.

(2) The planning of networks for digital broadcasting shall be frequency-based to enable the most efficient use of the radio spectrum in accordance with available technological options. The frequency planning of networks shall be based principally on the use of the radio spectrum with single-frequency networks, if possible.

Article 80
(Obligation of a multiplex system operator)

Multiplex system operators shall plan and construct networks for digital broadcasting in accordance with the public tender requirements for allocation of radio frequencies for digital broadcasting and with other provisions of this Act.

Article 81
(Meaning of standards and adopted professional criteria)

(1) In planning networks for digital broadcasting, the Agency and the multiplex system operator shall take into consideration internationally adopted standards for digital broadcasting.

(2) In planning networks for digital broadcasting, the Agency and the multiplex system operator shall not, without valid reason, ignore the professional criteria adopted by the competent authorities of the Republic of Slovenia or the EU.

Article 82
(Multiplex system operator as manager)

A multiplex system shall be managed by a multiplex system operator with a prior decision on the assignment of radio frequencies for a multiplex system.

Article 83
(Multiplex system operator as content provider)

(1) A multiplex system operator may also be a content provider, but is thereby obliged to perform the activities of a multiplex system operator through a legally independent company or keep separate financial accounts for activities associated with the management of a multiplex system.

(2) Notwithstanding any provision of the Act governing the media, the provisions on the incompatibility of the provision of electronic communications networks or the provision of electronic communications services and radio or television broadcasting activities shall not apply to a multiplex system operator that is also a content provider.

Article 84
(Obligation of equal treatment)

(1) A multiplex system operator shall be obliged to ensure for all content providers equal and non-discriminatory conditions for accessing the multiplex system managed by this multiplex system operator in respect of the right to disseminate programme content using digital broadcasting technology in the relevant geographical area.

(2) The provision in the preceding paragraph shall also apply if the multiplex system operator is at the same time a content provider.

Article 85
(Assignment of radio frequencies for multiplexing)

Radio frequencies for multiplexing shall be assigned by the Agency in a decision on the assignment of radio frequencies following completion of a public tender procedure in accordance with the provisions of the preceding Chapter.

Article 86
(Special arrangements for the purposes of public broadcasting)

(1) Notwithstanding the provision of the preceding Article, a public tender shall not be required when assigning radio frequencies for a single multiplex system with geographical coverage of the entire territory of the Republic of Slovenia that is intended for public broadcasting in compliance with the act governing public broadcasting to provide public services and for the transmission of other channels of particular interest for the Republic of Slovenia in compliance with the Act governing the media.

(2) For the purposes set out in the preceding paragraph, public broadcasting may freely make use of the free capacity of the multiplex system referred to in the preceding paragraph; however, it may in no case disregard the prohibition of discrimination pursuant to this Act.

(3) The provisions of the preceding paragraph shall not apply if the multiplex system referred to in this Article is the only active multiplex system with geographical coverage of the entire territory of the Republic of Slovenia. In this case, the public broadcasting entity shall, against payment and in the framework of the free capacity, provide for the transmission of channels with the right to disseminate content using digital broadcasting technology in the entire territory of the Republic of Slovenia.

Article 87
(Resolution on the initiation of a public tender)

(1) The resolution to initiate a public tender on the assignment of radio frequencies for a multiplex system shall, in addition to the required elements referred to in paragraph one of Article 50 of this Act, contain all the essential specifications of the multiplex system for which a radio frequency is tendered, such as frequency, area of coverage, capacity of a multiplex system, potential restrictions on the use of a multiplex system, and other elements in compliance with this Act.

(2) In a public tender for the assignment of radio frequencies for a multiplex system, the Agency may reserve a part of the tendered capacity of the multiplex system for dissemination of television and radio channels of particular interest as provided by the Act governing the media.

Article 88
(Tender for obtaining radio frequencies for a multiplex system)

In addition to data referred to in paragraph one of Article 46 of this Act that must be submitted in the application for a decision on the assignment of radio frequencies

pursuant to procurement documents, tenderers shall also enclose with their tenders for obtaining radio frequencies for a multiplex system a time frame and spatial plan for network deployment.

Article 89
(Decision on the assignment of radio frequencies for a multiplex system)

(1) When a reservation of a part of the capacity of a multiplex system for obligatory inclusion of certain television or radio channels is envisaged in a public tender as a condition for obtaining radio frequencies for the multiplex system, the size and purpose of such reserved capacities shall be specified in the decision on the assignment of radio frequencies for the multiplex system in addition to the elements referred to in Article 64 of this Act.

(2) In addition to the conditions referred to in Article 65 of this Act, the Agency may also specify, in the decision on the assignment of radio frequencies for a multiplex system, conditions, restrictions and the method for offering other services in the multiplex system.

Article 90
(Amendment of decisions on the assignment of radio frequencies for a multiplex system)

In addition to the reasons referred to in Article 70 of this Act, the Agency may, *ex officio*, amend the decision on the assignment of radio frequencies for a multiplex system if this is necessary to improve the quality of service in the public interest or to provide quality mobile reception.

Article 91
(Revocation of decisions granting the right to disseminate television or radio channels)

Notwithstanding the provisions of the Act governing the media, the Agency shall initiate the procedure for revocation of the decision granting the right to disseminate television or radio channels in a particular area *ex officio* unless within three months of the start of operation of the multiplex system the holder of rights begins disseminating and broadcasting television or radio channels for which the holder obtained such right in a multiplex system in this area, provided that all technical and legal conditions have been fulfilled.

Article 92
(Transfer of right of use for radio frequencies for a multiplex system)

If the operator of a multiplex system intends to terminate operations, the operator may submit an application for transferring the right of use for radio frequencies for the multiplex system. If the operator fails to do so at least three months prior to the planned termination of operations, an application for transferring the right of use for radio frequencies for the multiplex system may be submitted by any content provider in this multiplex system.

Article 93
(Inclusion of television and radio channels in a multiplex system)

(1) The operator of a multiplex system in a particular geographical area must ensure inclusion in the multiplex system of all content providers that obtained the right to disseminate their television or radio channels using digital broadcasting technology for that area in accordance with the Act governing the media, to the extent of the free capacities of the multiplex system.

Article 94
(Requirements for interoperability of radio receivers)

(1) A car radio receiver installed in a new category M car placed on the market for sale or lease must include a receiver capable of receiving digital radio via terrestrial digital broadcasting. Receivers compliant with harmonised standards to which references were published in the Official Gazette of the Republic of Slovenia, or parts thereof, shall be deemed to meet this requirement covered by those standards or parts thereof.

(2) Other radio receivers for voice broadcasting that are placed on the market for sale must include a receiver capable of receiving digital radio via terrestrial digital broadcasting. The obligation does not apply to radio receivers that are not fitted with screens displaying the name of the channel being received and to products where the radio receiver is ancillary, such as smartphones and equipment used by radio amateurs.

Article 95
(Measures promoting the dissemination of digital radio)

Through their measures, the Ministry and the Agency may promote transmission and reception of radio stations by means of terrestrial digital voice broadcasting.

Article 96
(Supervision)

The Agency shall supervise the implementation of the provisions of this chapter and the fulfilment of decisions issued on its basis. In supervising the implementation of paragraph one of Article 94 of this Act, the Agency shall cooperate with the inspector responsible for transport, and in the implementation of paragraph two of Article 94 of this Act with the inspector responsible for supervising goods in the market, through the application *mutatis mutandis* of Article 288 of this Act. Their cooperation shall be conducted in accordance with the Act governing inspections.

VII. MANAGEMENT OF NUMBERING RESOURCES

Article 97
(Aims and management)

(1) The Agency shall manage the set of all numbering resources in the Republic of Slovenia on the basis of public authorisation, with the objective of ensuring their efficient structuring and use, as well as satisfying the needs of operators and other natural persons and legal entities eligible to obtain a decision assigning numbering resources under this Act in a fair and non-discriminatory manner. In doing so, the Agency shall take into consideration any strategic documents of the Republic of Slovenia and the EU, as well as the guidelines of the Ministry.

(2) The Agency shall maintain all data relating to the management of numbering resources.

(3) The Agency shall publish on its website data on assigned numbers or number blocks as follows:
1. the number or number block,
2. the holder of the number or number block.

Article 98
(Numbering plan)

(1) The Agency shall adopt a numbering plan by means of a general act.

(2) The numbering plan shall define the type, length and structure, and purpose and method of use, of numbering resources, including numbers for emergency calls and the numbers the use of which is harmonised with EU regulations; however, it must also enable number portability and the introduction of new electronic communications services. The numbering plan shall also determine a range of non-geographic numbers which may be used for the provision of electronic communications services other than interpersonal communications services throughout the territory of the EU.

(3) Amendments or supplements to the numbering plan which substantively impact the numbering system, and the introduction of which requires sophisticated technology, shall only start to apply two years after their entry into force.

(4) By 31 March each year, the Agency shall publish on its website a review of the assigned numbering resources by type and by intended use. The review shall also include an analysis of the risk of exhaustion of individual numbering resources.

Article 99
(Use of numbering resources)

The operators and natural persons or legal entities referred to in paragraph one of Article 101 of this Act may only use numbering resources pursuant to a decision on the assignment of numbering resources, whereby the Agency grants the right of use for them.

Article 100
(Procedure for issuing decisions on the assignment of numbering resources)

(1) The Agency shall issue decisions on the assignment of numbering resources in accordance with the numbering plan under the provisions of the Act governing general administrative procedure and pursuant to prior implementation of a public tender in cases stipulated by this Act. In assigning numbering resources managed by the ITU, the Agency shall also consider the procedures defined in the relevant recommendations of that union. In assigning numbers the use of which is harmonised pursuant to EU regulations, the Agency shall also consider the procedures laid down in the regulations and recommendations of the EU.

(2) The Agency shall only use public tender procedures where, by applying *mutatis mutandis* the procedure referred to in Article 47 of this Act, it finds that the efficient use of specific numbering resources with exceptional economic value (e.g. short numbers) can only be ensured by limiting the number of decisions on the assignment of numbering resources issued. Participation in the public tender procedure as tenderers is open to operators who

can assign so obtained numbering resources on equal, cost-oriented and transparent terms to their users, whereas other natural persons or legal entities may only participate if they can demonstrate that they are capable of managing the numbering resources.

(3) In such public tender procedures, the Agency shall apply *mutatis mutandis* the provisions of this Act governing the public tender procedure for the assignment of specific radio frequencies.

(4) The Agency shall decide on tenders by issuing one or more decisions on the assignment of numbering resources, which in such instances it must issue and serve within 42 days of the expiry of the time limit for the submission of tenders, and at the same time it must inform the public of its decision.

Article 101
(Issuing decisions on the assignment of numbering resources)

(1) An operator may file an application for the issue of a decision on the assignment of numbering resources. Other natural persons or legal entities may do so only if they can demonstrate that they need the numbering resources to undertake activities in the public interest or for numbering resources other than those used for interpersonal communications services. Other natural persons or legal entities must demonstrate that they are capable of managing the numbering resources.

(2) Applications referred to in the preceding paragraph must contain the data required by the Agency to maintain official records of holders of decisions on the assignment of numbering resources and to supervise the use of numbering resources, and in particular:
1. name, address and tax number for natural persons,
2. company name, registered office, tax number and indication of the legal representative for legal entities,
3. evidence that the applicant is eligible for assignment of numbering resources,
4. data on the type, quantity and intended use of the numbering resources applied for,
5. a project design containing a needs assessment plan for the subsequent three years if the applicant requests a larger number block,
6. justification demonstrating that the applicant will use the assigned quantity of numbering resources within three years.

(3) In addition to data referred to in the preceding paragraph, investors that are not also operators must submit evidence of their ability to manage the numbering resources.

(4) Where no public tender is carried out, the Agency shall issue and send a decision on the assignment of numbering resources within 21 days of receipt of an application for a decision on the assignment of numbering resources.

(5) Notwithstanding the provision of the preceding paragraph, the Agency shall, by means of a decision, refuse to issue a decision on the assignment of numbering resources if it determines that:
1. the applicant is not eligible for assignment of numbering resources,
2. the applicant has not settled all outstanding liabilities towards the Agency;
3. the intended use does not justify the assignment of the requested quantity and/or type of numbering resources,
4. the assignment of numbering resources would contravene applicable legislation,
5. the investor that is not also an operator has not demonstrated its ability to manage numbering resources,

6. the risk of exhaustion of numbering resources is associated with the investor that is not also an operator.

(6) The Agency shall, by means of a general act, define the criteria for assessing the ability to manage numbering resources and the risk of their exhaustion. In doing so, the Agency shall take utmost account of the BEREC guidelines. The Agency shall, by means of a general act, stipulate in detail the content and the form of the application, and define the size of the number block referred to in point 5 of paragraph two of this Article.

(7) The operator may assign the assigned numbers to end-users of its services in accordance with the decision on the assignment of numbering resources and applicable legislation. On the basis of a legal transaction, the operator may also assign them for a fee to service providers for use in the operator's network, wherein it may only charge the actual costs. Operators shall not discriminate among service providers with regard to the number blocks used to access their services. The operator must send all data on such legal transactions to the Agency.

Article 102
(Content of decisions on the assignment of numbering resources)

(1) Decisions on the assignment of numbering resources must contain at least:
1. data on the holder of the right of use for numbering resources,
2. assigned numbering resources,
3. conditions for the use of the numbering resources referred to in Article 103 of this Act.

(2) Holders of the right of use for numbering resources shall be obliged to notify the Agency of any changes to the data referred to in point 1 of the preceding paragraph within 30 days of such change.

Article 103
(Conditions for the use of numbering resources)

The conditions under point 3 of paragraph one of the preceding Article may only apply to:
1. designation of the service for which the assigned numbering resource or resources may be used, including any requirements linked to the provision of that service, and tariff principles with the highest prices that may apply to a specific numbering area,
2. ensuring actual and efficient use of numbering resources,
3. number portability,
4. the obligation to provide the subscriber information required in public directories in accordance with Article 205 of this Act,
5. the validity period of decisions on the assignment of numbering resources, subject to any changes in the numbering plan,
6. transfer of rights of use for numbering resources and the terms of such transfer in accordance with Article 106 of this Act,
7. payment of fees for the use of assigned numbering resources in accordance with Article 111 of this Act,
8. obligations undertaken by a holder of a decision on the assignment of numbering resources in a public tender procedure,
9. obligations arising from international treaties applicable in the Republic of Slovenia to numbering resources and their use,

10. obligations in relation to the extraterritorial use of numbering resources within the EU for the purposes of compliance with the regulations of other Member States on consumer protection and numbering resources.

Article 104
(Extraterritorial use of numbering resources)

(1) When non-geographic numbers used for the provision of electronic communications services are assigned, the conditions within the country codes of other EU Member States must be as stringent as the conditions applicable to services provided within the country code of the Republic of Slovenia.

(2) When the numbering resources referred to in the preceding paragraph are assigned, the Agency shall, in the decision on the assignment of numbering resources, define conditions to ensure compliance with consumer protection and other national regulations related to the use of numbering resources applicable in those Member States where the numbering resources are used.

(3) The Agency shall periodically send information on the assigned numbering resources referred to in paragraph one of this Article to BEREC.

(4) When numbering elements referred to in paragraph one of this Article are assigned to a natural person or a legal entity that is not an operator, the provisions of this Article shall apply to special services for the provision of which the right of use for the numbering resources was assigned.

Article 105
(Validity of decisions on the assignment of numbering resources)

The Agency shall issue decisions on the assignment of numbering resources for an indefinite period.

Article 106
(Transfer of the right of use for numbering resources)

(1) Holders of decisions on the assignment of numbering resources may transfer their right of use for such numbering resources by legal transaction to another natural person or legal entity meeting the prescribed conditions, but only with the prior consent of the Agency, which shall verify that such other natural person or legal entity meets the conditions laid down by law, implementing regulations or acts of the Agency.

(2) In transferring the right of use for numbering resources to another natural person or legal entity in accordance with the preceding paragraph, the Agency shall issue to such natural person or legal entity a new decision on the assignment of numbering resources pursuant to the provisions of the Act governing general administrative procedure.

(3) The designated use of numbers harmonised pursuant to EU regulations shall not be changed upon the transfer of rights referred to in the preceding paragraph.

Article 107
(Amendment of decisions on the assignment of numbering resources)

(1) For the purposes of harmonisation with the amendments and/or supplements to the plan in accordance with paragraph three of Article 98 of this Act, the Agency shall by means of decisions amend *ex officio* previously issued decisions on the assignment of numbering resources within thirty 30 days of the date of entry into force of amendments and/or supplements to the plan. In such instances, holders of decisions on the assignment of numbering resources and/or users to whom such numbering resources have been assigned shall not have the right to claim compensation.

(2) The Agency may also amend a decision on the assignment of numbering resources on the proposal of its holder.

Article 108
(Revocation of decisions on the assignment of numbering resources)

(1) The Agency shall be obliged *ex officio* to revoke a decision on the assignment of numbering resources if it determines that:
1. the application for the assignment of numbering resources contained false data,
2. the holder no longer meets the conditions laid down pursuant to applicable legislation and the decision on the assignment of numbering resources,
3. the assigned numbering resources did not start to be used within three years of the issue of a decision on the assignment of numbering resources, or have not been used for more than one year,
4. in accordance with paragraph one of Article 106 of this Act, the holder transferred by legal transaction the right of use for numbering resources to another natural person or legal entity.

(2) The Agency shall also revoke a decision on the assignment of numbering resources *ex officio*:
1. if fees for the use of numbering resources, and/or fees for efficient use of a limited natural resource, have not been paid despite two written warnings or
2. if there are other serious or repeated irregularities related to fulfilling the conditions for the use of numbering resources referred to in Article 103 of this Act that were stated in the decision on the assignment of numbering resources, if such irregularities have not been eliminated by more lenient measures in a supervisory procedure.

Article 109
(Protection of end-users in the case of revocation of decisions on the assignment of numbering resources)

(1) At least 60 days before the intended revocation of a decision on the assignment of numbering resources for reasons referred to in points 1 and 2 of paragraph one of the preceding Article and reasons referred to in paragraph two of the preceding Article, the Agency shall inform the interested parties on its website and in the media about its intended revocation of a decision on the assignment of numbering resources and about the possibility for end-users to port numbers to another operator in accordance with Article 195 of this Act. Holders of decisions on the assignment of numbering resources shall also inform their subscribers thereof on their websites, in the media and on issued invoices.

(2) Before revoking the decision on the assignment of numbering resources referred to in the preceding paragraph, the Agency shall obtain from the holder of such decision information on the numbers specified in the decision on the assignment of numbering resources which have been ported to other operators in accordance with Article 195 of this Act.

(3) On the basis of the information referred to in the preceding paragraph, the Agency shall, at least 60 days before the intended revocation of the decision on the assignment of numbering resources referred to in paragraph one of this Article, issue *ex officio* in accordance with the provisions of the Act governing general administrative procedure, a decision on the assignment of numbering resources, by which the number blocks assigned by the decision on the assignment of numbering resources being revoked shall be assigned to the operator to which the greatest number of numbers have been ported in accordance with Article 195 of this Act.

Article 110
(Termination of decisions on the assignment of numbering resources)

(1) A decision on the assignment of numbering resources shall cease to be valid:
1. on the proposal of the holder of the decision on the assignment of numbering resources,
2. if the holder of the decision on the assignment of numbering resources ceases to exist,
3. on revocation of the decision on the assignment of numbering resources.

(2) In instances referred to in points 1 and 2 of the preceding paragraph, the Agency shall issue a declaratory decision.

Article 111
(Fees for use of numbering resources)

(1) Holders of decisions on the assignment of numbering resources shall be obliged to pay an annual fee to the Agency for the use of the assigned numbering resources. Such fees shall cover the costs incurred by the Agency in managing and supervising the numbering resources.

(2) The Agency shall, by means of a general act, lay down the method of calculating fees pursuant to this Article. The amount of the fee shall depend on the quantity, length and type of numbering resources, but it may not restrict competition or create barriers to market entry.

(3) The Agency shall determine the amount of the fee pursuant to paragraphs one and two of this Article by means of a tariff, giving due consideration to the necessary coverage of costs referred to in paragraph one of this Article and applying *mutatis mutandis* paragraphs four, five and six of Article 6 of this Act. In determining the amount of the fee, the Agency shall take into consideration the general act referred to in the preceding paragraph and in force on the date of issue of the Government’s consent to the tariff for the next calendar year.

(4) Article 7 of this Act shall apply to the assessment and payment of fees for the use of numbering resources.

(5) Notwithstanding the provision of paragraph four of Article 7 of this Act, a person liable whose right of use for numbering resources ceased for reasons beyond the person's control, shall be obliged to pay for as many twelfths of the annual fee as the number of full months for which such right was held, but not less than one-twelfth of the annual fee.

(6) Notwithstanding the provision of paragraph one of this Article, operators shall not be obliged to pay the Agency for the use of numbers ported to another operator. The person liable for the payment for such numbers to the Agency shall be the operator to whom

such numbers have been ported. The Agency shall take into consideration the data communicated by the operator in accordance with paragraph eight of Article 195 of this Act.

(7) For numbering resources assigned under a public tender, except for the numbering resources required for the performance of activities in the public interest for which other regulations or EU regulations stipulate that services accessible via these numbering resources are provided to users free of charge, the payment of an additional fee shall also be required for efficient use of a limited natural resource, thereby ensuring optimal use of assigned numbering resources. Such fees shall constitute state budget revenues. In such instances the minimum amount of such fees and the method of their payment shall be determined in the resolution initiating the public tender procedure. In deciding on such tender criteria, on the minimum amount of fees and on the method of payment thereof, due consideration shall be given to the supply of and demand for the tendered numbering resources, the development level of the market to which the tendered numbering resources apply, and the amount of such fees in other EU Member States, but the amount shall in no case be so high as to hinder the development of innovative services and market competition.

Article 112
(International prefix)

(1) The international outgoing call prefix for the Republic of Slovenia shall be 00. Operators shall inform their end-users of this in an appropriate manner.

Article 113
(Access to services using non-geographic numbers)

(1) An operator of public communications networks and/or provider of publicly available electronic communications services must enable end-users to call all numbers provided in the EU, including Universal International Freephone Numbers, and to access and use services using non-geographic numbers within the EU, where economically feasible.

(2) An operator of public communications networks and/or provider of publicly available electronic communications services shall not be obliged to comply with the obligation referred to in the preceding paragraph where a called subscriber has chosen, for commercial reasons, to limit calls originating from specific areas of the EU.

(3) A court may order the operator of a public communications network and/or provider of publicly available electronic communications services to block access to certain numbers, or services accessible through such numbers, where this is justified for reasons of misuse or fraud in the specific case before it. The court may, in such instances, require the provider of electronically available communications services to retain the revenues from the connection or other service concerned.

Article 114
(Supervision)

(1) The Agency shall supervise the implementation of the provisions of this Chapter and compliance with decisions issued on its basis.

(2) In the case of decisions on the assignment of numbering resources referred to in Article 104 of this Act, the Agency shall initiate a supervisory procedure on a proposal of the national regulatory authority or other competent authority of the EU Member State in

which the numbering resources are used to demonstrate breach of the consumer protection rules or other regulations of that state related to the use of numbering resources.

VIII. SECURITY OF NETWORKS AND SERVICES AND OPERATION IN A SITUATION OF THREAT

Article 115
(Security of networks and services)

(1) Operators must adopt appropriate and proportionate technical and organisational measures to appropriately manage the risks posed to the security of networks and services, including the associated information systems, in particular to prevent and reduce the impact of security incidents on users and other networks and services (hereinafter: the security management system). Having regard to the situation, these adopted measures, including encryption, shall ensure a level of security appropriate to the expected risk.

(2) The measures referred to in the preceding paragraph shall also include the adoption, implementation and monitoring of an appropriate ISMS designated by the operator as a business secret. Operators must continuously improve the ISMS, including the related measures contained therein.

(3) The ISMS shall at least:

1. identify all security risks from within or outside the operator's domain that may endanger operation of the public communications network and/or disrupt the operation of publicly available electronic communications services provided by the operator,
2. identify the likelihood of an event for all security risks referred to in the preceding indent,
3. determine the level of negative effects and consequences for the operation of the public communications network and publicly available communications services for all the security risks referred to in indent one,
4. determine appropriate security measures and draw up a risk management plan, including the designation of security controls and objectives, to reduce the likelihood of a security incident,
5. specify measures and plans to reduce the negative impacts and mitigate the consequences of a security incident,
6. determine the appropriate method for organising security within the operator domain, an integral part of which shall be security of the network and information system, and physical protection of facilities and devices,
7. identify an appropriate method of ensuring that key posts dealing professionally with security at the operator are filled,
8. determine the method of regular verification that measures and procedures undertaken match those specified in the security plan.

(4) The measures referred to in paragraph one of this Article shall also include the adoption, implementation and monitoring of an appropriate BCMS designated by the operator as a business secret. Operators must continuously improve the BCMS, including the related measures contained therein.

(5) Where the BCMS referred to in the preceding paragraph relates to the provision of emergency communication, it shall be reviewed at least once every year. Its adoption and any amendments or updates are subject to the prior approval of the competent authorities responsible for the operation of public safety answering points.

(6) In the BCMS and the ISMS, an operator shall take utmost account of internationally recognised standards and good practice.

(7) To implement this Article, the Agency shall issue a general act, providing in particular technical guidelines to be taken into consideration by operators in risk assessments, and technical and organisational measures. In drafting the general act, the Agency shall cooperate with the authority responsible for information security.

Article 116
(Additional security requirements)

(1) Operators of mobile communication networks providing these networks to critical infrastructure managers from other critical infrastructure regulatory areas designated in accordance with the Act governing critical infrastructure (hereinafter: critical infrastructure managers), to providers of essential services designated in accordance with the Act governing information security (hereinafter: providers of essential services), state administration bodies designated in accordance with the Act governing information security (hereinafter: state administration bodies), or providers of key parts of the national security system, shall, in addition to the requirements referred to in the preceding Article, comply with additional security requirements and restrictions.

(2) In addition to the identification of the risks referred to in the previous Article, the operators referred to in the preceding paragraph shall also take into account the risks arising from relations and arrangements with manufacturers or suppliers (hereinafter: suppliers) of information systems and network equipment (hereinafter: equipment), as well as the risks arising from the third-level support services provided to those operators by third-level support service providers. If certain equipment has been audited by European certification bodies carrying out audits from the point of view of security or quality of products, that equipment shall be deemed to be technically adequate without further audit by the operator.

(3) Operators referred to in paragraph one of this Article shall conduct a risk assessment for each of their suppliers and/or third-level support service providers. It shall include in this risk assessment all relevant risks referred to in the preceding paragraph, including with regard to the use of its equipment and services in critical elements and functions of networks and associated information systems.

(4) The obligation to make the definitions referred to in paragraph three of the preceding Article for the operators referred to in paragraph one of this Article shall also cover risks which may jeopardise the operation of non-public electronic communications networks or may disrupt the operation of non-public electronic communications services, where the aforementioned operator manages such networks for the purposes of critical infrastructure managers in other critical infrastructure management areas, providers of essential services and state administration bodies, or the providers of key parts of the national security system.

(5) Notwithstanding paragraphs three and four of this Article, the operator referred to in paragraph one of this Article, when providing the networks referred to in paragraph one of this Article and/or the preceding paragraph, may not use in the critical elements and functions of that network and the associated information systems, equipment and third-level support services the use of which could pose a threat to national security under Article 117 of this Act.

(6) To implement this Article, the Agency shall issue a general act, defining in particular the critical elements of the networks and the associated information systems referred to in the preceding paragraph, and other primarily technical guidelines to be taken

into consideration by operators referred to in paragraph one of this Article. In drafting the general act, the Agency shall cooperate with the authority responsible for information security.

Article 117
(Designation of equipment and third-level support for the purposes of national security)

(1) Following a prior opinion of the National Security Council (hereinafter: NSC) and on the proposal of the authority responsible for information security, the Government may issue a decision in which it designates the equipment and the third-level support services referred to in paragraph five of the preceding Article, and specifies a time limit for the fulfilment of the obligation referred to in paragraph five of the preceding Article which may not exceed five years. In assessing whether the equipment and the third-level support services could pose a threat to national security, the Government shall take into account that at least four of the following criteria must be met:

1. a strong link between the supplier and/or the third-level support service provider and the government of a third country, e.g. a connection between the decision makers of the supplier and/or the third-level support service provider and the government or authorities of a third country,
2. third country legislation governing security or information protection that allows for government interference, in particular where there is no legislative or democratic system of checks and balances in place or where no security or information protection agreements are concluded between the EU and the third country concerned,
3. non-transparent ownership structure of the undertaking of a supplier and/or provider of the third-level support services that allows for interference by the government of a third country,
4. the ability of a third country to exert pressure in relation to the supplier's business decisions, e.g. in relation to the location of an equipment manufacturing facility,
5. the inability of the supplier to guarantee supply even in a difficult economic situation, e.g. in the event of broken supply chains or economic sanctions,
6. insufficient overall quality of the supplier's cybersecurity products and practices, including the degree of control over its own supply chain and potential inadequate implementation of security practices in accordance with professional rules. If certain products or equipment of a supplier have been audited by European certification bodies carrying out audits from the point of view of security or quality of products, such products and equipment shall be deemed to be technically adequate and/or of required quality, unless proven later that the products or equipment allow for malicious activities,
7. non-transparency of the supplier and/or third-level support service provider with regard to the processing of the data by them, e.g. with regard to compliance with data protection legislation.

(2) The expert material for the decision referred to in the preceding paragraph (hereinafter: expert material) shall be prepared by the authority responsible for information security, in cooperation with the other competent authorities according to their respective competences in the areas listed under the criteria referred to in the preceding paragraph, and after prior consultation with the Agency with regard to the determination of the appropriate time limit referred to in the preceding paragraph and other technical issues, if any, associated with the preparation of the material. In the context of the preparation of the expert material, the authority responsible for information security shall also invite the supplier of the equipment and/or the provider of the third-level support service, and the operators referred to in paragraph one of the preceding Article that could be affected by the decision referred to in paragraph one of this Article (hereinafter: subjects having the status of a party to the procedure), to comment on the draft expert material within a time limit of not less than 30

days and at the same time to submit information and data which could influence the decision referred to in the preceding paragraph. The authority responsible for information security may also invite a subject having the status of a party to the procedure to an interview with regard to the draft expert material and any comments thereon. If the registered office of a subject having the status of a party to the procedure is not in the Republic of Slovenia, the authority responsible for information security shall, on its website, invite it in advance to communicate within 15 days the contact details of the person authorised to serve documents in the Republic of Slovenia. The failure of a subject having the status of a party to the procedure to respond to the invitation referred to in the preceding sentence or to the invitation to comment on the expert material referred to in the second sentence of this paragraph within the set time limit shall not affect the decision referred to in the preceding paragraph.

(3) The NSC shall at regular intervals, but at least every three years, examine the expert material in terms of the adequacy of issued decisions referred to in paragraph one of this Article and the possible need to issue new decisions, which shall be prepared by the authority responsible for information security in the manner referred to in the preceding paragraph.

(4) The Government shall, following a prior opinion of the NSC, on a proposal from the authority responsible for information security, amend, supplement or revoke previous decisions designating equipment and the third-level support services which could pose a threat to national security or, if necessary, issue new decisions under paragraph one of this Article. Subjects having the status of a party to the procedure may submit to the authority responsible for information security a proposal to amend, supplement or revoke a final decision referred to in paragraph one of this Article, if they demonstrate that the conditions for issuing such decisions are no longer met and/or that the circumstances in which it was issued subsequently changed significantly.

(5) The Government shall publish information on the issue of a decision referred to in paragraph one of this Article in the Official Gazette of the Republic of Slovenia. The Government shall also notify the Agency of this information.

(6) An administrative dispute shall be allowed against the decision referred to in paragraph one of this Article.

Article 118
(Obligation to notify and report security incidents)

(1) Operators shall immediately notify the Agency and the national computer security incident response team acting in the field of electronic network and information security (hereinafter: national CSIRT) of any security incident with a significant impact on the operation of public communications networks or the provision of publicly available communications services. If emergency communication is affected as a result of a security incident, operators shall simultaneously notify also the relevant public safety answering point. Operators shall notify the competent authorities referred to in this paragraph in a manner which, if possible, ensures the security of the data transmitted electronically.

(2) The Agency shall, by means of a general act, define the content of the notification and in which cases the impact referred to in the preceding paragraph has been significant. Prior to issuing the aforementioned general act, the Agency shall obtain an opinion of the authority responsible for information security.

(3) In determining the significant impact referred to in the preceding paragraph, the Agency shall take into account in particular the following criteria:

1. the number of users affected by the security incident,
2. the duration of the incident,
3. the geographical spread of the area affected by the security incident,
4. the extent to which the operation of a network or a service was affected,
5. the extent of the impact on economic and societal activities, in particular critical infrastructure, provision of essential services, emergency communication services, and the functioning of state administration bodies or providers of key parts of the national security system.

(4) The national CSIRT shall notify the authority responsible for information security of incidents referred to in paragraph one of this Article.

(5) The Agency shall, as appropriate, notify the competent authorities in other EU Member States and the European Union Agency for Cybersecurity (hereinafter: ENISA) of individual security incidents referred to in paragraph one of this Article.

(6) Following consultation with the authority responsible for information security, the Agency may inform the public or require the operator affected by the security incident to do so, if it believes that disclosure of the security incident referred to in the preceding paragraph is in the public interest.

(7) Once a year, and not later than by the end of February for the previous year, the Agency shall submit a summary annual report to the European Commission and ENISA on reports received and measures adopted in accordance with paragraphs one, two and/or five of this Article. The Agency shall also inform the authority responsible for information security of the report.

(8) In the event of a specific and serious threat of a security incident referred to in paragraph one of this Article in public communications networks or publicly available electronic communications services, operators shall inform free of charge their users that could be affected by such threat of any protective or corrective measures that users may take. Operators shall, as appropriate, inform users of the threat itself.

(9) The Agency may request the assistance of the national CSIRT in relation to issues falling within its tasks under the Act governing information security.

(10) The Agency shall, as appropriate, consult and cooperate with law enforcement bodies, the authority responsible for information security and the Information Commissioner in relation to the issues referred to in this Article.

(11) The provisions of this Article shall be without prejudice to the provisions of Chapter XII of this Act and other regulations governing the protection of personal data.

Article 119
(Evaluation of a security incident)

(1) Notified security incidents are evaluated by the Agency in cooperation with the national CSIRT when they are being resolved. In the evaluation, the Agency and the CSIRT may consult the authority responsible for information security. Depending on the severity of the security incident:

1. a minor incident is a one-off security incident which, according to the criteria for determining the significance of the impact of the security incident referred to in paragraph three of the preceding Article, has a small disruptive effect on the security of the operator’s networks and services, and should not cause major damage to the

operator; the incident also should not have a disruptive effect on the operation of critical infrastructure managers or providers of essential services or state administration bodies designated in accordance with the sectoral legislation, on emergency communication and the operation of the key parts of the national security system;

2. a major incident is a one-off security incident or a sequence of a larger number of different security incidents within a short period which, according to the criteria for determining the significance of the impact of the incident referred to in paragraph three of the preceding Article, has a significant disruptive effect on the security of the operator's networks and services; the incident has a significant effect on the uninterrupted operation of the operator and causes major damage to the operator; the incident also can have a disruptive effect on the operation of critical infrastructure managers or providers of essential services or state administration bodies designated in accordance with the sectoral legislation, on emergency communication and the operation of the key parts of the national security system, but such impact does not meet the criteria referred to in the next point;
3. a critical incident is a security incident that, according to the criteria for determining the significance of the impact of the incident referred to in paragraph three of the preceding Article, has a very significant disruptive effect on the security of the operator's networks and services; the incident also hampers the functioning of the state, in particular the key parts of the national security system, emergency communication and providers of essential services or state administration bodies designated in accordance with the sectoral legislation; a critical incident can also partially disable the functioning of at least three sectors of critical infrastructure or essential services designated in accordance with the sectoral legislation, or disables one completely.

(2) To implement this Article, the Agency shall issue a general act in which it primarily defines when a disruptive effect on the security of the operator's networks and services is considered to be small, significant or very significant, taking into account the criteria referred to in paragraph three of the preceding Article. In drafting the general act, the Agency shall cooperate with the authority responsible for information security.

Article 120
(Action in the case of a major or critical incident or a cyber-attack)

(1) Based on data and information on the severity of the security incident referred to in the preceding Article communicated promptly by the Agency or national CSIRT, the authority responsible for information security in cooperation with the two authorities evaluates whether the incident constitutes a cyber-attack.

(2) The authority responsible for information security shall immediately notify the Government and the NSC of a critical incident and a cyber-attack, however, based on their judgement of the relevant circumstances, they may also notify them of a major incident where there is a risk of it escalating into a critical incident.

(3) In the event of a major or critical incident or of a cyber-attack, the authority responsible for information security shall determine by means of a written decision, or in emergency cases even a verbal decision, such relevant and proportionate measures as are deemed necessary to stop an ongoing security incident or to eliminate its consequences. Operators shall be served a written copy of the verbal decision as soon as possible, but no later than within 48 hours of the verbal decision.

(4) The measures issued pursuant to the preceding paragraph shall be imposed to such an extent and for such a period of time as is necessary to achieve the purpose referred to in the preceding paragraph. No appeal shall be allowed against the decision referred to in

the preceding paragraph, but an administrative dispute against it may be initiated. An action in an administrative dispute shall be filed with the registered office of the Administrative Court of the Republic of Slovenia. The proceedings shall be urgent and prioritised.

(5) The authority responsible for information security shall immediately notify the Government, the NSC and the Agency of measures issued pursuant to paragraph three of this Article.

Article 121
(Situation of increased threat and action)

(1) A situation posing an increased threat to the security of the operator's networks and services (hereinafter: a situation of increased threat) is a situation in which there is a high probability of a major or critical incident referred to in paragraph one of Article 119 of this Act and/or a cyber-attack referred to in paragraph one of the preceding Article occurring within 72 hours of the detection of such probability.

(2) Based on data and information available and in cooperation with the Agency and the national CSIRT, the authority responsible for information security shall assess whether the situation poses an increased threat as referred to in the preceding paragraph.

(3) The authority responsible for information security shall immediately notify the Government and the NSC of the situation of an increased threat level because of the likelihood of a critical incident or a cyber-attack as referred to in paragraph one of this Article, however, depending on the assessment of the relevant circumstances, it may also decide to notify them of the likelihood of a major incident referred to in paragraph one of this Article.

(4) In a situation of increased threat, the authority responsible for information security may, by written decision, or, in emergency cases, by verbal decision, impose on the operator or operators concerned such relevant and proportionate measures as are deemed necessary to prevent or reduce the likelihood of the incident referred to in paragraph one of this Article, as well as to reduce the expected adverse effects if such incident occurs. Operators shall be served a written copy of the verbal decision as soon as possible, but no later than within 48 hours of the verbal decision.

(5) The measures issued pursuant to the preceding paragraph shall be imposed to such an extent and for such a period of time as is necessary to achieve the purpose referred to in the preceding paragraph. No appeal shall be allowed against the decision referred to in the preceding paragraph, but an administrative dispute against it may be initiated. An action in an administrative dispute shall be filed with the registered office of the Administrative Court of the Republic of Slovenia. The proceedings shall be urgent and prioritised.

(6) The authority responsible for information security shall notify the Government, the NSC and the Agency of the measures referred to in paragraph four of this Article.

Article 122
(Informing the public of adopted measures)

If it is necessary to provide information to the public with regard to the measures adopted under Articles 120 or 121 of this Act, the authority responsible for information security shall, together with the government office responsible for communication with the public, draft a press release that may be published by the media only in an unchanged form.

Article 123
(Security audit)

(1) At the request of the Agency, operators must allow a security audit of their networks and services, including the associated information systems (hereinafter: information system audit) to be carried out at the operators' expense by a qualified auditor of information systems that shall submit the results of such information system audit, maintaining the level of secrecy referred to in paragraph two of Article 115 of this Act, to the Agency and the subject of auditing.

(2) To conduct the audit referred to in the preceding paragraph, the operator shall select a qualified auditor of information systems that is registered with the Slovenian Institute of Auditors. (2) Within 30 days of the request of the Agency referred to in the preceding paragraph, the operator shall notify the Agency of its selection and of the initiation of the audit of information systems.

(3) Should an operator fail to comply with the preceding paragraph, the Agency shall appoint a qualified auditor of information systems that is registered with the Slovenian Institute of Auditors to conduct the audit referred to in paragraph one of this Article. The cost of the audit shall be borne by the subject of auditing.

Article 124
(Business continuity management in a situation of threat)

(1) In a situation of threat, operators shall establish, document, implement and maintain processes, procedures and controls for the provision of the BCMS, including the provision of alternative channels, themselves or, where they deem appropriate, together with other operators. This applies in particular to those parts of the network, services and links that are essential for uninterrupted operation of networks of key parts of the national security system and emergency communication, and for supporting the functioning of critical infrastructure, providers of essential services and state administration bodies.

(2) Operators shall establish and maintain appropriate capabilities, measures and arrangements with other operators to ensure the rapid recovery of the network and restoration of the services referred to in the preceding paragraph in the event of a catastrophic failure or natural and other disasters.

(3) Operators shall, taking into account changes and previous adverse events, continuously implement and monitor and regularly improve the measures, plans and capabilities for the provision of the BCMS referred to in paragraph one of this Article.

(4) Where the BCMS referred to in paragraph one of this Article refers to the provision of emergency communication, the provision of paragraph five of Article 115 of this Act shall apply.

Article 125
(Prioritisation and other measures in a situation of threat)

(1) In a situation of threat, operators shall as a priority provide the operation of those parts of the network, services and connections that are essential for uninterrupted operation of networks of key parts of the national security system and emergency communication, and for supporting the functioning of critical infrastructure, providers of essential services and state administration bodies.

(2) Operators providing a public communications network shall be obliged to adapt their networks so as to be able to prioritise communications from specific network termination points over communications from other network termination points (hereinafter: priority function) in a situation of threat. Communication assigned a priority function in the public communications network of one operator shall retain such priority in the public communications networks of other operators as far as technically feasible. Operators shall bear the burden of proof of the extent of technical inability. In a situation of threat, operators may also enable the operation of priority network termination points by restricting or interrupting the operation of the rest of communication traffic to such an extent and for such a period of time as is necessary for the operation of priority network termination points.

(3) The Government shall determine by decree the group of users with the right to priority network termination points in accordance with the preceding paragraph.

(4) The Government shall also determine, by means of a resolution, other measures and restrictions on or interruptions to operation, relating to ensuring public communications networks or publicly available communications services in the event of natural and other disasters, an epidemic announced in accordance with regulations governing public health, or catastrophic network failure, if required to eliminate the conditions that have arisen.

(5) The measures issued pursuant to the preceding paragraph must be defined to such an extent and for such a period of validity as required to eliminate the circumstances referred to in the preceding paragraph.

Article 126
(Availability of publicly available services)

(1) Providers of voice communications services and internet access services through public communications networks shall, in addition to the obligations referred to in paragraphs one and two of the preceding Article, be obliged to take appropriate technical and organisational measures to minimise disruption to their activities in a situation of threat. Providers of voice communications services and internet access services shall be obliged to implement such measures throughout the duration of the circumstances that led to their adoption.

(2) The measures referred to in the preceding paragraph must ensure the availability of voice communications services in the shortest possible time. These measures must ensure uninterrupted access to voice communications services, the use of numbers for emergency communication and uninterrupted provision of public notification and warning referred to in Article 201 of this Act.

Article 127
(Strikes)

(1) Universal service providers and/or operators required to undertake obligations pursuant to this Chapter shall through a bylaw regulate the manner of uninterrupted provision of services within the framework of universal service and/or obligations of the operator pursuant to this Chapter.

(2) The Agency shall supervise compliance with the obligation to adopt and implement the bylaw referred to in the preceding paragraph.

Article 128
(Supervision)

The Agency shall supervise the implementation of the provisions of this Chapter, with the exception of the provisions of Articles 120 and 121 of this Act, for which supervision shall be undertaken by the authority responsible for information security.

IX. ENSURING COMPETITION

1. **General**

Article 129
(Regulatory strategy)

The Agency may, with a view to promoting regulatory predictability, prepare and publish on its website a regulatory strategy covering at least three years.

Article 130
(Interconnection and operator access)

(1) Operators of public electronic communications networks shall have the right and, where required by other operators of public electronic communications networks, the obligation to negotiate amongst themselves regarding interconnection in order to provide publicly available communications services with a view to ensuring services and the interoperability of services. Operators of public electronic communications networks shall provide other operators operator access and/or interconnection under conditions compliant with the obligations imposed by the Agency in accordance with this Act in relation to interconnection and operator access.

(2) Operators of public electronic communications networks shall agree on technical and commercial issues of operator access and/or interconnection exclusively by contract, which must not contravene the provisions of this Act and regulatory obligations imposed by the Agency through provisions in this Chapter. Any dispute shall, at the request of one of the parties, be settled by the Agency under the procedure referred to in Article 283 of this Act.

(3) In concluding interconnection and/or operator access contracts, the operators of public electronic communications networks shall be obliged to protect the confidentiality of all data exchanged in the process. Such data may not be used for any other purpose or passed on to a third party, in particular to other departments, branches, subsidiaries or partners, to which such information could provide a competitive advantage. Notwithstanding the foregoing, the obligations referred to in Articles 149 and 150 of this Act shall apply.

(4) Notwithstanding the dispute settlement procedure referred to in paragraph two of this Article, the Agency shall, in accordance with the objectives set out in Articles 258 to 261 of this Act, foster and, where appropriate in view of the circumstances of the case, by decision ensure appropriate operator access and interconnection, as well as service interoperability, in such a way as to promote efficiency, sustainable competition, deployment of very high capacity networks, efficient investment and innovation, and to maximise the benefits for end-users. In doing so, the Agency may impose, in particular on operators that supervise access to end-users, obligations to the extent required to ensure end-to-end connectivity, including the obligation of interconnection if this has not yet been done, or in

justified cases and to the extent required for this purpose, the obligation to ensure service interoperability. The foregoing shall be without prejudice to the obligations imposed on operators with significant market power in accordance with this Act.

(5) The obligations and conditions set out in the decision referred to in the preceding paragraph must be objective, transparent, proportionate and non-discriminatory. The decision must be issued in accordance with the procedures referred to in Article 269 of this Act and with the consultation and cooperation procedures with other regulatory authorities, the European Commission and the BEREC, laid down in Articles 274, 275, 276 and 277 of this Act. Five years after the measure was imposed, the Agency shall review the results of the measure and evaluate whether, in the light of changing circumstances, it is necessary to amend or revoke the decision. It shall publish the results of the review in accordance with the procedures referred to in Article 269 of this Act and with the consultation and cooperation procedures with other regulatory authorities, the European Commission and BEREC, laid down in Articles 274, 275, 276 and 277 of this Act.

(6) For the purpose of ensuring fulfilment of the objectives set out in paragraph four of this Article with respect to operator access and interconnection in justified cases, the Agency may decide *ex officio*, under the procedures referred to in Articles 269, 274, 275 and 277 of this Act, by applying *mutatis mutandis* the procedure referred to in Articles 283 and 284 of this Act.

(7) Operators not providing services or managing networks in the Republic of Slovenia may apply for access or interconnection without prior notification of the Agency thereof, in accordance with Article 5 of this Act.

(8) The Agency shall draft and publish on its website guidelines and information on interconnection and operator access procedures.

Article 131
(Obligations of providers of number-independent interpersonal communications services)

(1) In justified cases, the Agency may by decision under the procedure referred to in paragraph four of the preceding Article or under the procedure referred to in paragraph six of the preceding Article, impose obligations on providers of number-independent interpersonal communications services achieving a significant level of coverage and users to ensure the interoperability of their services. It shall impose the obligation in justified cases when end-to-end connectivity is compromised due to insufficient interoperability of services, to the extent necessary to ensure end-to-end connectivity between end-users. The Agency may impose proportionate obligations on providers of number-independent interpersonal communications services to publish and allow other competent authorities and service providers to use, modify and disseminate relevant information, or to apply and implement the standards or specifications referred to in Article 267 of this Act or other relevant European or international standards.

(2) The obligations referred to in the preceding paragraph may be imposed after the regulations adopted by the European Commission in accordance with paragraph two of Article 61 of Directive 2018/1972/EU have entered into force.

(3) The Minister shall publish the date of entry into force of the regulations referred to in the preceding paragraph in the Official Gazette of the Republic of Slovenia.

Article 132
(Access to application programme interfaces and electronic programme guides)

The Agency may, by means of a decision under the procedure referred to in paragraph four of Article 130 or the procedure referred to in paragraph six of Article 130 of this Act, require the operators providing electronic communications networks intended for the distribution of digital television services to ensure access to application programme interfaces and electronic programme guides under fair, reasonable and non-discriminatory conditions. The Agency shall impose obligations to the extent necessary to provide end-users with access to radio and television broadcasting services and the related complementary services.

Article 133
(Obligations relating to the sharing of passive infrastructure and obligations to conclude localised national roaming agreements)

(1) The Agency may, by decision under the procedure referred to in paragraph four of Article 130 or under the procedure referred to in paragraph six of Article 130 of this Act, impose on operators obligations relating to the sharing of passive infrastructure or obligations to conclude localised national roaming agreements, if directly necessary for the local provision of services which rely on the use of the radio spectrum and provided that no viable and similar alternative means of access to end-users is made available to any operator on fair and reasonable terms.

(2) The Agency may impose the obligations referred to in the preceding paragraph only where this possibility has been indicated in the resolution to initiate a public tender for the assignment of radio frequencies and where, in the area subject to such obligations, the market-driven deployment of infrastructure for the provision of networks or services which rely on the use of the radio spectrum is subject to insurmountable economic or physical obstacles and therefore access to networks or services by end-users is severely deficient or absent. When sharing of passive infrastructure does not suffice, the Agency may impose obligations to share active infrastructure.

(3) In implementing this Article, the Agency shall take into account:
1. the need to maximise connectivity throughout the EU, along major transport paths and in particular territorial areas, and the possibility to significantly increase choice and higher quality of service for end-users,
2. the efficient use of the radio spectrum,
3. the technical feasibility of sharing and associated conditions,
4. the state of infrastructure-based as well as service-based competition,
5. technological innovation,
6. the need to support the incentive of the host to roll out the infrastructure.

(4) In the event of dispute resolution referred to in Articles 283 and 284 of this Act, the Agency may impose on the beneficiary of the sharing or national roaming obligation, the obligation to share the radio spectrum with the infrastructure host in the relevant area.

Article 134
(Conditional access systems and other facilities)

(1) Operators of conditional access services providing access to digital television and radio services on which broadcasters are dependent, shall be obliged to offer all

broadcasters, under fair, reasonable and non-discriminatory conditions, technical services that enable their subscribers to access their services by means of decoders.

(2) Operators referred to in the preceding paragraph shall be obliged to keep accounts for the provision of conditional access services separate from other activities.

(3) Holders of industrial property rights to conditional access products and systems shall be obliged to grant licences to consumer equipment manufacturers under fair, reasonable and non-discriminatory conditions. When granting licences, such holders may not apply any conditions which prevent manufacturers from incorporating into a single product common interfaces enabling connection to other access systems, or elements specific to another access system, provided that they comply with relevant and reasonable conditions that ensure the security of transactions of conditional access system operators.

(4) Where, as a result of a market analysis carried out in accordance with paragraph one of Article 147 of this Act, the Agency finds that one or more operators do not have significant market power in the relevant market, it may amend or withdraw the conditions with respect to those operators, taking into account Articles 274 to 277 of this Act, only to the extent that:

1. accessibility for end-users to radio and television broadcasts and broadcasting channels and services, for which the obligation of transmission is provided for by the Act governing the media, would not be adversely affected by such amendment or withdrawal,
2. the prospects for effective competition in the markets for retail digital television and radio broadcasting services and for conditional access systems and other associated facilities would not be adversely affected by such amendment or withdrawal.

(5) The Agency shall notify broadcasters affected by such amendment or withdrawal of conditions referred to in the preceding paragraph thereof within 15 days of the date on which the decision to amend or withdraw the conditions referred to in the preceding paragraph becomes final.

Article 135
(Classification of channels)

(3) The Agency shall issue, by means of a general act, guidance to the operators providing public communications networks intended for the distribution of digital television services regarding the classification of channels with respect to which it issued a licence in accordance with the Act governing the media. In doing so, the Agency shall give due consideration to the public interest pursued by legislation in the area of the media, and the interests of end-users. An operator that intends to change the channel classification position within the framework of the general act referred to in the first sentence shall be obliged to warn and notify the broadcaster of the new channel position at least 30 days before the intended change. The classification of channels under the general act referred to in the first sentence shall not affect the right of end-users to be free to determine the order of channels for their own use.

2. **(Facility sharing)**

Article 136
(Facility sharing)

(1) Where a network operator has the right to construct, install, operate or maintain the networks and associated infrastructure on, over or under private property or may take advantage of a procedure of expropriation or establishment of the right of use for such real estate, the Agency may order the sharing of the communications facilities referred to in paragraph three of this Article, including co-location, with due consideration for the principle of proportionality. The Agency shall not impose the measure of facility sharing on an investor in the construction of electronic communications networks and associated infrastructure for the purposes of security, the police, defence and protection, rescue and disaster relief.

(2) The Agency may impose the measure of facility sharing referred to in the preceding paragraph to the benefit of a network operator that is denied access to viable alternatives in order to protect the environment, public health, public safety or spatial planning arrangements, and where the parties are unable to agree on facility sharing with the network operator referred to in the preceding paragraph.

(3) Facility sharing referred to in this Article shall comprise the property and/or communications facilities, for example buildings, entries into buildings, building wiring, masts, antennae, towers and other supporting constructions, conduits, ducts, manholes and cabinets, including physical co-location.

(4) When ordering the measure of facility sharing, the Agency may determine rules for apportioning the costs of the facility or property sharing. The Agency may also set and/or restrict the price of access to this infrastructure by taking account of the efficiency of service provision when sharing costs. The network operator referred to in paragraph one of this Article must provide cost evidence and justification for the price of access to the infrastructure, if requested by the Agency.

(5) At the request of a network operator, the Agency shall decide on the measure referred to in paragraph one of this Article, or, when the Agency considers it appropriate with regard to the circumstances of the case, it shall decide on such measure *ex officio*. In issuing the decision, the Agency shall follow the procedure referred to in paragraph five of Article 130 of this Act.

(6) The measure imposing the facility sharing must be objective, transparent, non-discriminatory and proportionate. Where the Agency considers it necessary in view of the circumstances of the case, such measure shall be carried out in cooperation with the bodies of self-governing local communities.

Article 137
(Sharing in-building physical infrastructure)

(1) A network operator shall have the right to access in-building physical infrastructure to deploy an electronic communications network, if replication of such infrastructure would be economically inefficient or physically impracticable.

(2) At the justified request of a network operator, holders of the right to use a distribution point and the in-building physical infrastructure shall offer to conclude an appropriate agreement on access to the distribution point and the in-building physical infrastructure on fair and non-discriminatory terms, including, where applicable, the price.

(3) Notwithstanding the provisions of the preceding paragraphs, a liable person referred to in the preceding paragraph may refuse access if the passive communication infrastructure is made available on fair and non-discriminatory terms, including, where applicable, the price.

(4) Notwithstanding the provisions of paragraphs one and two of this Article, the liable person referred to in paragraph two of this Article shall refuse access if the obligation of sharing has already been imposed by the decision referred to in paragraph one of Article 138 of this Act.

(5) If the agreement on access referred to in paragraph one and/or two of this Article is not reached within two months of receipt of a written request for access, the Agency shall, at the request of one of the parties, decide on the matter in accordance with the procedure laid down in Article 286 of this Act. In doing so, the Agency shall take into account the requests referred to in paragraphs one or two of this Article.

(6) Where the in-building physical infrastructure is not available, the network operator may, subject to paragraph five of the preceding Article, terminate its network on the subscriber's premises in agreement with the subscriber, while minimising the impact on the private property of third parties.

Article 138
(Sharing wiring, cables and associated facilities inside buildings)

(1) At the request of the network operator or *ex officio*, the Agency may, by means of a decision, impose obligations in relation to the sharing of wiring, cables and associated facilities inside buildings or up to the first distribution point, where this is located outside the building, on the network operator referred to in paragraph one of Article 136 of this Act, under the procedure referred to in paragraph five of Article 130 of this Act, where justified on the grounds that replication of such infrastructure would be economically inefficient or physically impracticable. Where the Agency considers it necessary in view of the circumstances of the case, it may stipulate rules for accessing such network elements, associated facilities and associated services, rules for transparency and non-discrimination, and rules for apportioning the costs of facility and/or property sharing, adjusted for investment risk.

(2) Where the Agency concludes, having regard, where applicable, to the obligations by decisions issued pursuant to Article 148 of this Act, that the obligations pursuant to the preceding paragraph do not sufficiently address high and non-transitory economic and physical barriers to replication which underlie an existing or emerging market situation significantly limiting competitive outcomes for end-users, it may extend the imposition of such access obligations, on fair and reasonable terms and conditions, beyond the first distribution point, to a point that it is closest to end-users and is capable of hosting a sufficient number of end-user connections to be commercially viable for efficient access seekers. In doing so, the Agency shall take utmost account of the BEREC guidelines. If justified on technical or economic grounds, the Agency may impose active or virtual access obligations.

(3) The Agency shall not impose obligations referred to in the preceding paragraph:
1. on a wholesale-only operator referred to in Article 161 of this Act that makes available a viable and similar alternative means of reaching end-users by providing access to a very high capacity network to all operators on fair, non-discriminatory and reasonable terms, or
2. the imposition of obligations would compromise the economic or financial viability of a new network deployment, in particular by small local projects.

(4) The Agency may extend the exception referred to in point 1 of the preceding paragraph to other operators that on fair, non-discriminatory and reasonable terms provide access to a very high capacity network.

(5) The exception referred to in point 1 of paragraph three of this Article shall not apply to networks built with the funds referred to in Article 20 of this Act.

(6) Where the owner of the wiring referred to in paragraph one of this Article is the owner of the building, they shall be obliged to allow other natural persons or legal entities providing electronic communications networks to share such wiring on fair, non-discriminatory and reasonable terms.

Article 139
(Access to the existing physical infrastructure)

(1) An infrastructure operator may offer a network operator access to its physical infrastructure for the purpose of deploying elements of electronic communications networks.

(2) A network operator may offer its physical infrastructure to another infrastructure operator for the deployment of networks other than electronic communications networks.

(3) Where a network operator requests access to its physical infrastructure from an infrastructure operator for the purpose of deploying elements of electronic communications networks, the network operator shall specify in its request the elements of the physical infrastructure to which it is requesting access, including a specified timeframe. The Agency shall, by means of a general act referred to in paragraph eight of this Article, define the minimum set of elements required in an application.

(4) In the event of a request from a network operator referred to in the preceding paragraph, the infrastructure operator shall make an offer for the sharing of facilities on fair and reasonable terms.

(5) Notwithstanding the provision referred to in the preceding paragraph, an infrastructure operator may refuse access to its physical infrastructure on the grounds of:
1. technical inadequacy due to exceptional circumstances relating to the infrastructure to which access was requested,
2. lack of suitable premises or plans to use the premises for other purposes, which must be justified (e.g. by means of publicly available investment plans of the infrastructure manager),
3. security or public health risks,
4. compromising of network security, in particular critical infrastructure,
5. the risk that the planned electronic communications services would seriously interfere with the provision of other services over the same physical infrastructure,
6. the availability of viable alternative means of wholesale access to the physical network infrastructure offered by the infrastructure operator and suitable for the provision of electronic communications networks, provided that such access is offered on fair and reasonable terms.

(6) The infrastructure operator shall communicate the grounds for refusal of access referred to in the preceding paragraph within two months of receipt of a request for access containing all the elements referred to in paragraph three of this Article.

(7) If no agreement on the terms of access is reached within two months of receipt of a request for access containing all the elements referred to in paragraph three of this Article, or if the infrastructure operator refuses access, the Agency shall, at the request of one of the parties, decide on the dispute in accordance with the procedure referred to in Article 286 of this Act. The Agency shall set the access price in such a way that the access provider has a reasonable prospect of recovering its costs, taking into account the impact of

the access in question on the business plan of the access provider, including the investments of the infrastructure operator requested to provide access in particular investments in the physical infrastructure used for the provision of electronic communications services.

(8) The Agency shall issue a general act for the implementation of this Article.

Article 140
(Access to unused optical fibres)

A network operator may also request an investor in other types of public service infrastructure or an operator of other types of public service infrastructure to provide access to its unused optical fibres in the manner and according to the procedure referred to in the preceding Article.

Article 141
(Exercise of shared use rights)

A natural person or legal entity providing communications networks shall be obliged to exercise the right to the sharing of communications facilities and/or property referred to in Articles 136 to 140 of this Act in such a manner as to minimise disturbance to the owner of the property and interference with the property subject to the sharing of communications facilities and/or property, and also to minimise disturbance to the owner of the infrastructure subject to the sharing, or to the person managing the infrastructure.

3. **Regulation of operators with significant market power**

Article 142
(Operators with significant market power)

(1) In ensuring effective competition in the electronic communications market through ex ante regulation, an operator shall be deemed to have significant market power under this Act if, either individually or jointly with other operators in a particular market for public communications networks and/or publicly available communications services (hereinafter: relevant market), it enjoys a position equivalent to dominance, that is to say, a position of economic strength affording it the power to act to an appreciable extent independently of competitors, users and consumers.

(2) If two or more operators are active in a market, the structure of which is considered to be conducive to coordinated effects, they may be treated as operators in a joint dominant position in terms of the preceding paragraph, even in the absence of structural or other links between them.

(3) Where an operator has significant market power in a relevant market (primary market), it may also be deemed to have significant market power in a market closely related to the primary market (secondary market), where the links between the two markets are such as to allow the market power held in the primary market to be leveraged into the secondary market, thereby strengthening the market power of the operator. Measures to prevent such leverage of market power in accordance with Articles 149, 150, 151 and 154 of this Act may be applied to the secondary market, and if such measures are insufficient, the measures referred to in Article 157 of this Act may be imposed.

Article 143
(Criteria for assessing dominant position)

In assessing whether an operator has significant market power in accordance with paragraph one of the preceding Article, the Agency shall in particular take into account the following criteria, which are not of a cumulative nature:

1. the market share of the operator in the relevant market, and the change in its market share in the relevant market over an extended period,
2. barriers to the relevant market entry and the effect on potential competition in that market,
3. barriers to expansion in the relevant market,
4. absolute and relative size of the operator,
5. absence of or small countervailing buyer power,
6. technological and commercial advantages,
7. the development level of sales and distribution networks,
8. economies of scale and/or economies of integration,
9. the degree of vertical integration,
10. the degree of product and service differentiation,
11. the possibility of access to financial resources,
12. the oversight of infrastructure which may not be easily duplicated,
13. the conclusion of long-term and sustainable access agreements,
14. contractual relations with other market participants that could be considered market restriction.

Article 144
(Criteria for making an assessment of joint dominant position)

(1) In assessing a joint dominant position in the sense of paragraph two of Article 142 of this Act, the Agency shall establish:

1. whether, from the operators' standpoint, the market is sufficiently transparent to enable the alignment of competitive behaviour of undertakings that remain mutually independent,
2. whether the joint alignment policy referred to in the preceding indent is sustainable, and
3. whether the competitors enjoy sufficient market position and power, and whether end-users enjoy sufficient countervailing buyer power to jeopardise the alignment mechanism referred to in point 1 of this paragraph.

(2) In the assessment referred to in the preceding paragraph, the Agency shall take into account both the economic alignment mechanism referred to in the preceding paragraph, namely at the wholesale and retail levels and the interaction between the two levels, and the market structure, in particular the elasticity of demand, the number of competitors in the market, market shares, cost structure, technological development, differentiation of products and services, the comprehensiveness of network coverage, the profitability and the average revenue per user, the vertical integration, the sophistication of the distribution and sales networks, and potential competition.

Article 145
(Conduct of Agency in determining significant market power)

In determining significant market power and applying the criteria referred to in Articles 143 and 144 of this Act, the Agency shall act in accordance with EU law and take utmost account of the European Commission guidelines on market analysis and the assessment of significant market power in the area of electronic communications networks

and services. In doing so, the Agency shall cooperate with the authority responsible for the protection of competition.

Article 146
(Definition of relevant markets)

(1) The Agency shall be obliged, in providing and operating electronic communications in accordance with the principles of competition law, and by consistently taking into account each recommendation of the European Commission regarding relevant markets for electronic communications products and services and the guidelines referred to in the preceding Article of this Act, to define the product, service and geographical markets relevant to the situation in the country, in the analysis of the individual relevant market. In the analysis, the Agency shall take into account the level of competition in infrastructure in these areas in accordance with the principles of competition law. In doing so, the Agency shall cooperate with the authority responsible for the protection of competition. The Agency may, if appropriate, take into account the data from the record referred to in paragraph one of Article 15 of this Act and the data on the announced network deployment referred to in Article 18 of this Act.

(2) Where the Agency intends by the decision referred to in Article 148 of this Act to regulate a market not listed in the recommendation referred to in the preceding paragraph, it shall be obliged, in accordance with the recommendation for such market, to apply a test of three criteria, which are of a cumulative nature:

1. the presence of high and constant barriers to entry which are of a structural, legal or regulatory nature,
2. a market structure tending towards ineffective competition within the relevant time horizon, and
3. the fact that competition law is insufficient for a suitable market response.

(3) In the event of the cumulative fulfilment of the criteria referred to in the preceding paragraph, the Agency must, to regulate such relevant market, hold a public consultation in accordance with Article 269 of this Act, cooperate in accordance with Article 280 of this Act, and hold consultations with other regulatory authorities, the European Commission and BEREC in accordance with Articles 274, 275, and 277 of this Act.

(4) In the analysis referred to in paragraph one of this Article, the Agency shall consider developments from a forward-looking perspective in the absence of the obligation referred to in Article 148 of this Act in the relevant market. In doing so, it shall take into account the following elements:

1. market developments affecting the likelihood of the relevant market tending towards effective competition,
2. relevant competitive constraints, at the wholesale and retail levels, irrespective of whether the sources of such constraints are considered to be electronic communications networks, electronic communications services, or other types of services or applications which are comparable from the perspective of the end-user, and irrespective of whether such constraints are part of the relevant market,
3. other types of regulation or measures imposed and affecting the relevant market or related retail market or markets throughout the relevant period, including obligations imposed in accordance with Articles 130, 131, 132, 133, 136 and 138 of this Act, and
4. obligations imposed on other relevant markets on the basis of this Article.

Article 147
(Analysis of relevant markets)

(1) The Agency must at regular intervals conduct an analysis of the markets referred to in paragraph one of the preceding Article. Where the Agency considers it appropriate in view of the circumstances of the case, it shall cooperate professionally with the authority responsible for the protection of competition in accordance with Article 280 of this Act.

(2) The Agency shall be obliged to conduct the analysis referred to in the preceding paragraph no later than five years after the adoption of the previous measure relating to this relevant market. Such period may exceptionally be extended by no more than one year, provided that the Agency notifies the European Commission of the proposed extension together with the reasoning, and provided that the European Commission does not object within one month of receiving the notification of extension.

(3) With respect to relevant markets of which the European Commission has not been notified in advance, the Agency shall be obliged to perform the analysis referred to in paragraph one of this Article within three years of receiving the revised recommendation of the European Commission relating to the relevant markets referred to in paragraph one of the preceding Article.

(4) In performing the analysis referred to in paragraph one of this Article, the Agency shall be obliged to take into account Articles 145 and 146 of this Act and to comply with the European Commission's guidelines for market analysis and the assessment of significant market power.

(5) If the Agency fails to complete the analysis of a relevant market within the time limit referred to in paragraphs two and three of this Article, it may request the assistance of BEREC. On receiving such assistance, the Agency shall within six months notify the Commission of the draft measure in accordance with Articles 274, 275 and 277 of this Act.

Article 148
(Imposing, amending, maintaining or withdrawing obligations on operators with significant market power)

(1) Where on the basis of an analysis of a relevant market the Agency concludes that the market is not effectively competitive, it shall determine by decision the operator or operators with significant market power in that market. Prior to issuing a decision, it may obtain the opinion of the authority responsible for the protection of competition.

(2) The Agency shall be obliged, by means of a decision referred to in the preceding paragraph, to impose on operators with significant market power at least one of the obligations referred to in Articles 149 to 154 and/or Articles 156 to 162 of this Act. In doing so, the Agency shall take into account the principle of proportionality, which must be appropriately substantiated in the reasoning of the decision. The Agency shall also take into account the costs and benefits of the obligation imposed, where appropriate.

(3) In imposing the obligation referred to in the preceding paragraph, the Agency shall, where appropriate, take into account the existence of transnational demand referred to in paragraph one of Article 274 of this Act. In doing so, the Agency shall take utmost account of the BEREC guidelines on common approaches for national regulatory authorities.

(4) If the Agency intends to impose on an operator with significant market power the obligation of functional separation referred to in Article 158 of this Act, or, giving due consideration to the principle of proportionality, obligations for operator access or interconnection other than those set out in the preceding paragraph, it must submit such

request to the European Commission. The Agency shall comply with the decision of the European Commission on the admissibility of such imposed obligation.

(5) Where a particular operator is again designated as having significant market power, the Agency may impose on such operator the same or other obligations while revoking the previous decision.

(6) If, on the basis of an analysis of a relevant market, the Agency concludes that such market is effectively competitive, it shall not designate any operator as an operator with significant market power. If this market was previously non-competitive, the Agency shall be obliged to revoke by means of decisions all previous decisions designating operators with significant market power in that market. In such instances, the Agency shall issue a decision specifying the appropriate suspension time limit, which may not be less than 15 days.

(7) In revoking decisions pursuant to the preceding paragraph, the Agency shall also withdraw all obligations imposed on operators with significant market power.

(8) Measures that modify the technical details of previously imposed obligations pursuant to this Article and have no significant impact on the market and measures that take into account the impact of new market developments, such as in relation to commercial agreements, including co-investment agreements referred to in Article 156 of this Act that influence competitive dynamics, which are not sufficiently important to require a new market analysis in accordance with the preceding paragraph, may be imposed by the Agency by means of a decision in an administrative procedure on the basis of an analysis of the relevant markets which formed the basis for the previously imposed obligations and by giving due consideration to Articles 274 to 277 of this Act. Prior to issuing a decision, the Agency shall obtain the opinion of the authority responsible for the protection of competition.

(9) The Agency may only implement the measure set out in this Article on the basis of prior consultation with the interested parties as laid down in Article 269 of this Act, in cooperation with the authority responsible for the protection of competition pursuant to Article 280 of this Act, under the conditions referred to in Articles 274 to 277 of this Act, and with other competent regulatory authorities in the EU Member States, the European Commission and BEREC.

(10) The operative part of the decision issued pursuant to this Article shall be published on the Agency's website. Final decisions shall be published on the Agency’s website in a form compliant with the prohibition on disclosure of business secrets and personal data.

Article 149
(Obligation of transparency)

(1) The Agency may, by means of the decision referred to in paragraph one of the preceding Article, impose on a network operator with significant market power the obligation of transparency in relation to interconnection and/or operator access, requiring the operator to make public specific information relating to interconnection and/or operator access.

(2) In doing so, the Agency may require the operator to publish, for example, the following information:
1. accounting information,
2. technical specifications,
3. network characteristics and its anticipated development,
4. terms of implementation and use,

5. all conditions limiting access to and/or use of services and applications, in particular with regard to migration from legacy infrastructure, and
6. prices.

(3) In such decision, the Agency shall specify the precise information to be disclosed, the level of detail required and the manner of disclosure.

(4) The Agency may, in accordance with paragraphs one, two and three of this Article, issue a decision requiring the network operator referred to in paragraph one of this Article, on which the obligation referred to in Article 150 of this Act has been imposed, to publish a reference offer for interconnection and/or operator access. Such reference offer must be sufficiently unbundled to ensure that other operators requesting a specific service related to interconnection and/or operator access are not required to pay for facilities which are not necessary for the service requested. The reference offer must also include a description of the services offered by the network operator with significant market power in relation to interconnection and/or operator access, broken down into components according to market needs, and the associated terms, including prices. Without prejudice to the provisions under the chapter on supervision, the Agency may also impose changes to reference offers to give effect to obligations imposed pursuant to this Act.

(5) Notwithstanding paragraph three of this Article, the Agency may, in accordance with paragraphs one and two this Article, issue a separate decision requiring the network operator referred to in paragraph one of this Article, on which the obligations referred to in Article 152 or Article 153 of this Act have been imposed, to publish a reference offer for interconnection and/or operator access. Where appropriate, the reference offer must also contain key performance indicators and corresponding service levels. In doing so, the Agency shall take utmost account of the BEREC guidelines. In its decision, the Agency may also specify contractual penalties for breach of a reference offer. In setting the level of the contractual penalty, the Agency takes into account the gravity of the breach, the network operator's revenues and the impact of the breach on the competitiveness of the relevant market.

Article 150
(Obligation of non-discrimination)

(1) The Agency may, by means of the decision referred to in paragraph one of Article 148 of this Act, impose on a network operator with significant market power the obligation of non-discrimination in relation to interconnection and/or operator access.

(2) The imposition of the obligation referred to in the preceding paragraph shall in particular ensure that the operator referred to in the preceding paragraph:
1. applies equivalent conditions for interconnection and/or operator access in equivalent circumstances to other operators providing equivalent services,
2. provides services and information, in relation to interconnection and/or operator access, to other operators under the same conditions and of the same quality as it provides for its own services, or those of its subsidiaries or partners, and
3. provides in the supply of access products and services the same timescales and terms, including those relating to price and service quality, to other operators and provides them by means of the same systems and processes as to its subsidiaries or partners.

Article 151
(Obligation of accounting records separation)

(1) The Agency may, in accordance with the regulations governing accounting and by means of the decision referred to in paragraph one of Article 148 of this Act, impose on a specific network operator with significant market power the obligation to keep separate accounting records for particular activities related to interconnection and/or operator access, and for other activities. Such imposition shall be without prejudice to the act governing the transparency of financial relations and separate accounts for different activities.

(2) The Agency shall impose the obligation referred to in the preceding paragraph for the purposes of control of compliance with the obligations referred to in the preceding Article or to prevent unfair cross-subsidy. It shall impose such obligation in particular on a vertically integrated operator, and may require such operator to make its wholesale prices and internal transfer prices transparent. In doing so, it may also stipulate the format and methodology of accounting to be applied.

(3) The network operator referred to in paragraph one of this Article shall be obliged upon request to submit to the Agency accounting records, including data on revenues received from other parties doing business with the operator.

(4) The Agency may publish information that would contribute to an open and competitive market, while giving due consideration to the degree of commercial confidentiality of the received information, in accordance with national and EU regulations on commercial confidentiality.

(5) The Agency may, by means of a general act, stipulate in detail the manner of fulfilment of obligations referred to in this Article.

Article 152
(Obligation of access to communications facilities)

(1) The Agency may, by means of a decision referred to in paragraph one of Article 148 of this Act, impose on a particular operator with significant market power the obligation to meet reasonable requests for access to, and sharing of, communications facilities such as buildings or entries to buildings, building cables including wiring, antennae, towers and other supporting constructions, poles, masts, ducts, conduits, inspection chambers, manholes and cabinets.

(2) The Agency shall impose the obligations referred to in the preceding paragraph, when having considered the market analysis referred to in Article 147 of this Act, it concludes that denial of access or access given under unreasonable terms having a similar effect would hinder the emergence of a sustainable competitive market and would not be in the end-users' interest.

(3) The Agency may impose on an operator with significant market power an obligation to provide access in accordance with this Article, irrespective of whether the assets that are affected by the obligation are part of the relevant market in accordance with the market analysis, provided that the obligation is necessary and proportionate to meet the objectives referred to in Articles 258 to 263 of this Act.

Article 153
(Obligation of operator access to, and use of, specific network facilities)

(1) The Agency may, by means of a decision referred to in paragraph one of Article 148 of this Act, impose an obligation on a network operator with significant market

power to meet reasonable requests for operator access to, and use of, specific network elements and associated facilities. The Agency shall so act in particular when it considers that denial of operator access, or unreasonable terms having a similar effect would hinder the emergence of an effectively competitive market at the retail level, or would not be in the end users' interest. In doing so, the Agency may also impose additional conditions to ensure fairness, reasonableness and timeliness of compliance with obligations.

(2) The Agency may, *inter alia*, require network operators referred to in the preceding paragraph in particular:

1. to provide operator access to, and use of, specific network elements and/or associated facilities, including unbundled access to the local loop and sub-loop,
2. to provide operator access to specific active or virtual network elements and services,
3. to negotiate in good faith with operators requesting operator access,
4. not to withdraw operator access to facilities already granted,
5. to provide specific services on a wholesale basis for resale in the retail market,
6. to grant open operator access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services,
7. to provide co-location or other forms of associated facilities sharing in accordance with Article 136 of this Act,
8. to provide specific services needed to ensure interoperability of end-to-end services to users, including facilities for intelligent network services or roaming on mobile networks,
9. to provide operator access to operational support systems or similar software systems needed to ensure fair competition in the provision of services,
10. to interconnect networks or network facilities,
11. to provide access to associated services such as identity, location and presence service.

(3) Where the Agency is examining the obligations referred to in paragraph one of this Article, and in particular in assessing how such obligations would be imposed proportionate to the objectives set out in Articles 258, 259, 260 and 261 of this Act, it shall take into account in particular the following factors:

1. the technical and economic viability of using or installing competing facilities, in light of the rate of market development, taking into account the nature and type of interconnection and/or operator access involved, including the viability of other upstream access products, such as access to cable ducts,
2. the expected technological evolution affecting network design and management,
3. the need to ensure technology neutrality enabling users to design and manage their own networks,
4. the feasibility of providing the access offered, in relation to the capacity available,
5. the initial investment by the facility owner, taking account of any public investment made and the risks involved in making the investment, with particular regard to investments in, and risk levels associated with, very high capacity networks,
6. the need to safeguard competition in the long term, with particular attention to economically efficient infrastructure-based competition and innovative business models that support sustainable competition, such as those based on co-investment in networks,
7. where appropriate, any relevant intellectual property rights, and
8. the provision of pan-European services.

(4) Before it imposes the obligations referred to in this Article, the Agency shall examine whether the imposition of obligations in accordance with the preceding Article alone would be a proportionate means by which to promote competition and protect the end-user's interest.

(5) The Agency may by general act regulate issues arising in the implementation of this Article. In doing so, the Agency may stipulate in particular the technical or operational conditions of access to be met by beneficiaries and/or providers to ensure normal operation

of the network. In this context, the obligations to follow specific technical standards or specifications must comply with the requirements referred to in Article 267 of this Act.

Article 154
(Price control and cost accounting obligations)

(1) The Agency may, by means of a decision referred to in paragraph one of Article 148 of this Act, impose on a specific network operator with significant market power obligations relating to cost recovery and price control, including obligations for cost orientation of prices and obligations concerning cost-accounting systems, for the provision of specific types of interconnection and/or operator access.

(2) The Agency shall impose the obligations referred to in the preceding paragraph if it considers, on the basis of the market analysis referred to in Article 147 of this Act, that due to a lack of effective competition, the network operator referred to in the preceding paragraph may sustain prices at an excessively high level, or may apply a price squeeze, to the detriment of end-users.

(3) In imposing the obligations referred to in paragraph one of this Article and to encourage investment by network operators, including in next-generation networks, in particular very high capacity networks, the Agency shall take into account the investment made by the network operator referred to in paragraph one of this Article, and allow a reasonable rate of return on investment, giving due consideration to any risks specific to a particular new investment network project.

(4) The Agency shall not impose obligations referred to in paragraph one of this Article, where they establish that a demonstrable retail price constraint is present and that any obligations referred to in Articles 149 to 153 of this Act, including any economic replicability referred to in paragraph two of Article 150 of this Act, ensure effective and non-discriminatory access.

(5) When the Agency imposes on the operator referred to in paragraph one of this Article price control obligations on access to existing network elements, it shall also take account of the benefits of predictable and stable wholesale prices in ensuring efficient market entry and sufficient incentives for deployment of new and enhanced networks.

(6) Any cost recovery mechanism or pricing methodology that is mandated by the Agency shall serve to promote the deployment of new and enhanced networks, efficiency and sustainable competition and maximises consumer benefits. In doing so, the Agency may also take account of prices available in comparable competitive markets and at network operators.

(7) Where the Agency imposes on a network operator referred to in paragraph one of this Article an obligation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs, including a reasonable rate of return on investment, shall lie with the network operator concerned. In verifying compliance with such obligation, the Agency may use cost-accounting methods independent of those used by the network operator. The Agency may by decision also require a network operator to justify its prices, and may, where appropriate, require prices to be adjusted. In this regard, the burden of proof shall lie with the network operator obliged to comply with such requirements.

(8) Where the Agency imposes on a network operator referred to in paragraph one of this Article the obligation to apply a cost-accounting system in order to support price control, it shall also oblige the operator concerned to make a description of the cost-

accounting system publicly available, with the description showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. (4) The Agency or a certified auditor selected by the Agency at the expense of the operator in accordance with the Act governing public procurement shall verify compliance with the cost-accounting system. A statement concerning compliance shall be published annually.

Article 155
(Voice termination rates)

(1) In the Republic of Slovenia, the termination of voice calls may not be subject to prices higher than the maximum voice termination rates set by a regulation adopted by the European Commission in accordance with Article 75(1) of Directive 2018/1972/EU.

(2) If the maximum voice termination rates are not set by the regulation referred to in the preceding paragraph, the Agency may carry out an analysis of the voice termination market in accordance with Article 147 of this Act. The Agency may, by means of a decision referred to in paragraph one of Article 148 of this Act, designate an operator as having significant market power in that market and impose on such operator the cost orientation of voice termination rates. In doing so, it shall take into consideration the principles, criteria and parameters set out in Annex III to Directive 2018/1972/EU.

(3) The Agency shall monitor compliance of voice termination rates with the regulation referred to in paragraph one of this Article and require the rates to be changed if non-compliant. The Agency shall annually report to the European Commission and to BEREC with regard to the application of this Article.

(4) The Minister shall publish the date of entry into force of the regulation referred to in the preceding paragraph in the Official Gazette of the Republic of Slovenia.

Article 156
(Regulatory treatment of new very high capacity network elements)

(1) **O**perators designated as having significant market power in one or several relevant markets may, in accordance with Article 160 of this Act, offer commitments to open the deployment of a new very high capacity network that consists of optical fibre elements up to the end-user premises or base station to co-investment. Co-investment shall comprise co-ownership or long-term risk sharing through co-financing or through purchase agreements giving rise to specific rights of a structural character by other operators.

(2) The Agency shall examine the commitments referred to in the preceding paragraph, in particular, whether the offer to co-invest complies with all of the following conditions:

1. it is open during the lifetime of the network to any operator;
2. it would allow other co-investor operators to compete effectively and sustainably in the long term in downstream markets in which the operator designated as having significant market power is active, on terms which include:
   - fair, reasonable and non-discriminatory terms allowing access to the full capacity of the network to the extent that it is subject to co-investment,
   - flexibility in terms of the value and timing of the participation of each co-investor,
   - the possibility to increase such participation in the future, and
   - reciprocal rights awarded by the co-investors after the deployment of the co-invested infrastructure;

3. it is made public by the operator in a timely manner, namely by the time limit referred to in paragraph one of Article 11 of this Act; if it is not a wholesale-only operator referred to in Article 161 of this Act, at least six months before the start of deployment of the new network;
4. operators not participating in the co-investment can benefit from the outset from the same quality, speed, conditions and end-user reach as were available before the deployment, accompanied by a mechanism of adaptation over time that is confirmed by the Agency in light of developments on the related retail markets, and that maintains the incentives to participate in the co-investment; in doing so, the Agency shall take into account that the operators may have gradual access to the very high capacity elements of the network, and on the basis of transparent and non-discriminatory terms which reflect appropriately the degrees of risk incurred by the respective co-investors at different stages of the deployment and take into account the competitive situation in retail markets;
5. it complies at a minimum with the criteria set out in Annex IV of Directive 2018/1972/EU and is made in good faith.

(3) If the Agency concludes, taking into account paragraphs three and four of Article 160 of this Act, that the co-investment commitment offered complies with the conditions referred to in the preceding paragraph, it shall make that commitment binding in accordance with paragraph five of Article 160 of this Act. In doing so, the Agency shall not impose any additional obligations pursuant to Article 148 of this Act as regards the elements of the new very high capacity network that are subject to the commitments, if at least one potential co-investor has entered into a co-investment agreement with the operator with significant market power.

(4) Notwithstanding the preceding paragraph, the Agency may impose, maintain or adapt obligations in accordance with Articles 148 to 154 of this Act and taking into account paragraph eight of Article 148 of this Act as regards new very high capacity networks in order to address significant competition problems in specific markets, where those competition problems would not otherwise be resolved. The Agency shall, by means of a decision, provide an adequate justification of circumstances requiring such decision to be taken.

(5) The Agency shall monitor compliance with the conditions referred to in paragraph two of this Article. (4) A certified auditor may be selected by the Agency at the expense of the operator in accordance with the Act governing public procurement to provide annual compliance statements.

(6) This Article shall be without prejudice to the power of the Agency pursuant to paragraph one of Article 282 of this Act to settle disputes arising between operators in connection with a co-investment agreement that is compliant with the conditions referred to in paragraph one of this Article.

Article 157
(Obligation for regulation of retail services)

(1) The Agency may, by a decision referred to in paragraph one of Article 148 of this Act, impose obligations relating to the regulation of retail services on a specific operator with significant market power in a specific retail market.

(2) The Agency may only impose such obligations under this Article if, on the basis of the market analyses referred to in Article 147 of this Act, it establishes that a relevant market intended for end-users is not effectively competitive and the obligations referred to in

Articles 149 to 154 of this Act would not achieve the objectives pursued by the market. Obligations imposed under this Article may include prohibitions against:
1. charging excessive prices,
2. inhibiting market entry,
3. restricting competition by setting predatory prices,
4. giving undue preference to specific end-users,
5. unreasonable bundling of particular services.

(3) The Agency may, at the same time as imposing obligations pursuant to this Article, prescribe one of the following methods:
1. retail price capping,
2. control of individual tariffs,
3. orientation of tariffs towards costs,
4. orientation of tariffs towards prices in comparable markets.

(4) In complying with obligations imposed pursuant to this Article and relating to retail tariff regulation or other relevant retail controls, operators referred to in paragraph one of this Article shall be obliged to use the necessary and appropriate cost-accounting system laid down by the Agency in the decision referred to in paragraph one of this Article. In doing so, the Agency may specify the format and accounting methodology to be used by such operators. Compliance with the cost-accounting system shall be verified by a certified auditor in accordance with the Act governing auditing. The Agency shall publish annual compliance statements.

Article 158
(Functional separation)

(1) Where the Agency concludes that appropriate obligations imposed under Articles 149 to 154 have failed to achieve effective competition, and that there are important and persistent competition problems or market failures identified in relation to the provision of operator access, it may, on an exceptional basis and by means of a decision referred to in paragraph one of Article 148 of this Act, impose an obligation on a vertically integrated operator to transfer activities relating to the provision of operator access to a business entity operating independently. Such business entity shall provide operator access to all operators, including to other business entities within the vertically integrated operator, subject to the same timescales, terms and conditions, including those related to price and quality of service, and by means of the same systems and processes.

(2) Where the Agency intends to impose an obligation of functional separation under paragraph one of this Article, it may only do so under the procedure referred to in paragraph four of Article 148 of this Act. It shall therefore be obliged to submit to the European Commission a request that includes:
1. evidence justifying the Agency’s conclusions,
2. a reasoned assessment that there is little or no prospect of effective and sustainable infrastructure-based competition within a reasonable time-frame,
3. an analysis of the expected impact on market regulation, on the undertaking, including analysis of the impact on the workforce of the separate business entity, and an analysis of the impact on the electronic communications sector as a whole, and on incentives to invest therein, particularly with regard to the need to ensure social and territorial cohesion, and on other interested parties including, in particular, the expected impact on competition and any potential effects on consumers,
4. an analysis of the reasons why such obligation for functional separation is the most efficient measure to enforce remedies aimed at addressing the competition problems or market failures identified.

(3) The draft measure shall include the following elements:

1. the precise nature and level of separation, specifying in particular the legal status of the separate business entity;
2. definition of the assets of the separate business entity, and the products or services to be supplied by such entity,
3. the governance arrangements to ensure the independence of staff employed by the separate business entity, and the corresponding incentive structure,
4. rules for ensuring compliance with the obligations,
5. rules for ensuring transparency of operational procedures, in particular towards other interested parties;
6. a monitoring programme to ensure compliance with obligations, including the publication of an annual report.

(4) After obtaining consent from the European Commission as referred to in paragraph four of Article 148 of this Act, the Agency shall conduct a coordinated analysis of relevant markets related to the access network in accordance with the procedure referred to in Article 147 of this Act. On the basis of its assessment, the Agency shall impose, maintain, amend or withdraw obligations in accordance with paragraph five of Article 148 of this Act.

(5) An operator on which functional separation has been imposed may be subject to any of the obligations referred to in Articles 149 to 154 of this Act or to any of the obligations referred to in paragraph four of Article 148 of this Act, imposed by the Agency for any of the relevant markets referred to in Article 146 of this Act where the operator has, in accordance with Article 148 of this Act, been designated as having significant market power.

Article 159
(Voluntary separation by a vertically integrated operator)

(1) Operators which have been designated as having significant market power in one or several relevant markets shall inform the Agency at least three months before any intended voluntary transfer of their local access network assets or a substantial part thereof to a separate legal entity under different ownership, or establishment of a separate business entity in order to provide all retail providers, including the operator's own retail divisions, with fully equivalent forms of operator access on equal terms. Operators shall also inform the Agency of any change of that intent, as well as the final outcome of the process of voluntary separation.

(2) The Agency shall assess the effect of the intended transaction, together with any potential commitments offered, on existing obligations imposed on the operator in accordance with Article 148 of this Act. For that purpose, the Agency shall immediately conduct a coordinated analysis of the relevant markets related to the access network in accordance with Article 147 of this Act. On the basis of its assessment, the Agency shall impose, maintain, amend or withdraw obligations in such relevant markets in accordance with paragraph eight of Article 148 of this Act, applying, if appropriate, Article 161 of this Act.

(3) A legally or operationally separate operator may be subject to any of the obligations referred to in Articles 149 to 154 of this Act, or any of the obligations referred to in paragraph four of Article 148 of this Act, imposed by the Agency for any of the relevant markets referred to in Article 147 of this Act, where it has been designated, in accordance with Article 148 of this Act, as having significant market power.

Article 160
(Taking over commitments)

(1) An operator which has been designated as an operator with significant market power may offer commitments to the Agency regarding the terms and conditions for operator access and/or co-investment in relation to its network. The commitments may relate, *inter alia*, to:

1. cooperative arrangements relevant to the assessment of appropriate and proportionate obligations imposed pursuant to Article 148 of this Act,
2. co-investments in very high capacity networks pursuant to Article 156 of this Act,
3. effective and non-discriminatory access pursuant to Article 159 of this Act, both during an implementation period of voluntary separation by a vertically integrated undertaking and after the proposed form of separation is implemented.

(2) The offer for commitments shall be sufficiently detailed including as to the timing and scope of their implementation and their duration, to allow the Agency to undertake its assessment pursuant to paragraph three of this Article. Commitments may be given for a period exceeding the period referred to in Article 147 of this Act.

(3) The Agency shall conduct a public consultation on the commitments offered in accordance with Article 269 of this Act. The Agency shall not submit commitments for public consultation if it is evident that they do not meet one or more of the relevant conditions or criteria. The Agency shall assess the commitments referred to in the preceding paragraph, taking into account in particular:

1. evidence regarding the fair and reasonable character of the commitments offered,
2. the openness of the commitments to all operators,
3. the timely availability of access, including to very high capacity networks, under fair, reasonable and non-discriminatory conditions, before the launch of related retail services,
4. the overall adequacy of the commitments offered to enable sustainable competition on downstream markets and to facilitate cooperative deployment and take-up of very high capacity networks in the interests of end-users.

(4) Taking into account the views and comments expressed in the public consultation pursuant to paragraph three of this Article, the Agency shall inform the operator offering the commitments of its preliminary conclusions as to whether the commitments offered are consistent with the objectives, criteria and procedures set out in this Article and in Articles 148, 156 and 159 of this Act, and shall communicate to the operator the conditions under which the Agency could make the commitments binding. On the basis of these conclusions, the operator may modify the offer referred to in paragraph one of this Article.

(5) The Agency may, by way of a decision, make the commitments binding, wholly or in part, for a specific period which may not exceed the period for which they were offered. In the case of co-investment commitments, the period for which the commitments are made binding may not be less than seven years.

(6) The Agency shall monitor the implementation of the commitments referred to in the preceding paragraph. Upon expiry of the period referred to in the preceding paragraph, the Agency shall consider the possibility of extending the period.

(7) If the Agency finds that the operator does not comply with the commitments referred to in the decision under paragraph five of this Article, it may reassess the obligations imposed on the basis of paragraph eight of Article 148 of this Act.

Article 161
(Wholesale-only operators)

(1) Where the Agency designates an operator which is absent from the retail market for electronic communications services as having significant market power on one or several wholesale markets in accordance with Article 147 of this Act, it shall first verify whether that operator meets the following conditions:

1. all its subsidiaries and business units, all companies that are controlled but not necessarily wholly owned by the same ultimate owner, and any shareholder capable of exercising control over the operator, only pursue activities, current or planned for the future, in wholesale markets for electronic communications services and therefore do not pursue activities in any retail market for electronic communications services provided to end-users in the EU,
2. the operator is not bound to deal with a single and separate undertaking operating downstream that is active in any retail market for electronic communications services provided to end-users, because of an exclusive agreement, or an agreement which *de facto* amounts to an exclusive agreement.

(2) The Agency may impose on the operator referred to in the preceding paragraph the obligations under Articles 150 and 153 of this Act if the conditions laid down in the preceding paragraph are met and if this is justified on the basis of a market analysis, including a future assessment of the likely behaviour of the operator with significant market power.

(3) The Agency shall, *ex officio*, review the obligations imposed pursuant to this Article if it finds that the conditions referred to in paragraph one of this Article are no longer met, and shall apply the provisions of Articles 147 to 154 of this Act.

(4) The operator must inform the Agency without undue delay of any change of circumstances referred to in paragraph one of this Article.

(5) The Agency shall review obligations imposed on the operator with significant market power in accordance with this Article if, on the basis of evidence of terms and conditions offered by the operator to its downstream customers, it concludes that competition problems have arisen or are likely to arise to the detriment of end-users which require the imposition of one or more of the obligations provided in Articles 149, 151, 152 or 154 of this Act, or the amendment of the obligations imposed in accordance with paragraph two of this Article.

(6) The Agency shall impose obligations and review them in accordance with this Article, taking into account paragraph nine of Article 148 of this Act.

Article 162
(Transition from legacy infrastructure)

(1) Operators which have been designated as having significant market power in one or several relevant markets shall notify the Agency in writing in advance when they plan to decommission or replace with new infrastructure parts of the network, including legacy infrastructure necessary to operate a copper network, which are subject to obligations pursuant to Articles 148 to 161 of this Act.

(2) The Agency shall, by way of a decision, impose on the operators having significant market power referred to in the preceding paragraph measures to ensure that the decommissioning or replacement process includes a transparent timetable and conditions, including an appropriate notice period for transition, and establishes the availability of alternative products of at least comparable quality providing access to the upgraded network

infrastructure substituting the replaced elements if necessary to safeguard competition and the rights of end-users.

(3) Taking into account paragraph eight of Article 148 of this Act, the Agency may withdraw and/or amend the imposed obligations if the operator:

1. has established the appropriate conditions for the transition, including making available an alternative access product of at least comparable quality to what was available using the legacy infrastructure enabling the access seekers to reach the same end-users; and
2. has complied with the conditions and process notified to the Agency in accordance with this Article.

(4) The provisions of this Article shall be without prejudice to the availability of regulated products imposed by the Agency on the upgraded network infrastructure in accordance with Articles 147 and 148 of this Act.

Article 163
(Procedure for designation of transnational markets)

(1) The Agency, together with at least one other national regulatory authority, may request BEREC to carry out an analysis of a potential transnational market. The request shall be reasoned and shall include appropriate supporting evidence.

(2) The analysis of transnational markets designated by the European Commission in accordance with paragraph one of Article 65 of Directive 2018/1972/EU shall be carried out by the Agency together with the national regulatory authorities from other EU Member States covered by that transnational market.

(3) The imposition, modification, maintenance or withdrawal of obligations on operators with significant market power in transnational markets shall be decided by the Agency jointly with other national regulatory authorities in the EU Member States covered by that transnational market. In doing so, the Agency shall take the utmost account of the guidelines referred to in Article 145 of this Act. The Agency, together with other national regulatory authorities, shall communicate to the European Commission draft measures relating to the analysis of the markets and the decisions issued pursuant to Articles 274, 275, 276 and 277 of this Act.

(4) The Agency, together with at least one other national regulatory authority, may carry out a market analysis and decide on the imposition, modification, maintenance or withdrawal of obligations on operators with significant market power even in the absence of transnational markets, provided that the market conditions in the Member States concerned are sufficiently homogeneous.

Article 164
(Supervision)

The Agency shall, within the scope of its powers, supervise the application of the provisions of this Act on ensuring competition and compliance with the obligations imposed by way of a decision pursuant to the provisions of this Chapter.

X. UNIVERSAL SERVICE AND ADDITIONAL MANDATORY SERVICES

Article 165

(Concept of end-user)

For the purposes of this Chapter, end-user shall mean a consumer, a micro, small and medium-sized company in accordance with the Act governing companies, and a non-profit organisation as defined in the Act governing non-governmental organisations.

Article 166
(Universal service)

(1) Universal service is a set of at least the minimum services of a specified quality which is available to all end-users in the Republic of Slovenia at an affordable price, irrespective of their geographical location.

(2) Universal service shall include the provision of a connection to a public communications network at a fixed location at the reasonable request of an end-user, through which access to voice communications services and adequate broadband access to the internet is provided at a transmission speed as specified in the general act referred to in Article 180 of this Act. The universal service shall also include the provision of and access to a universal directory and a universal subscriber information service in accordance with Article 205 of this Act.

(3) A reasonable request by an end-user referred to in the preceding paragraph shall include connection at a single location where the end-user actually resides or actually carries out their activity. The connection may be made using wired or wireless technologies. If the end-user has the option of alternative access to the services included in the universal service package at an affordable price on the market, they shall not be able to request such services from the universal service provider under the conditions of this Chapter.

(4) The prices for each service provided as a universal service shall be the same for each universal service provider throughout the territory of the Republic of Slovenia. The price shall be the same irrespective of whether the connection is made using wired or wireless technologies.

(5) The quality of the universal service shall not deviate from the quality offered by the universal service provider for other comparable services.

(6) An end-user may require the universal service provider to provide them, through connection to the network referred to in paragraph two of this Article, only with access to a voice communication service or only to adequate broadband access to the internet.

Article 167
(Universal directory and universal directory enquiry service)

(1) The universal directory shall contain at least the information referred to in points 1 to 4 of paragraph one of Article 215 of this Act, with the exception of the information on the part of the building referred to in point 2, on all subscribers of publicly available number-based interpersonal communications services who have given their prior consent in accordance with Article 217 of this Act. The universal directory may be printed or electronic.

(2) The universal directory enquiry service, to which all end-users shall have access at an affordable price, shall provide information on all subscribers included in the universal directory.

(3) The information contained in the universal directory must be updated regularly or at least annually, taking into account the manner in which it is issued. The data provided by the universal directory enquiry service must be renewed at least once a month. The universal service provider providing the universal directory or the universal directory enquiry service shall immediately notify the Agency if another provider of publicly available number-based interpersonal communications services fails to communicate to it the information referred to in paragraph one of this Article.

(4) A universal service provider providing a universal directory or a universal directory enquiry service shall not treat differently the information it receives from different providers of publicly available number-based interpersonal communications services.

(5) The universal service provider referred to in the preceding paragraph shall not charge providers of publicly available number-based interpersonal communications services for the publication of data on their subscribers in the universal directory and for the use of that data in the universal directory enquiry service.

Article 168
(Availability of universal service)

(1) The universal service referred to in Article 166 of this Act shall be provided to all end-users on the territory of the Republic of Slovenia.

(2) The Agency may designate one or more universal service providers where, on the basis of an analysis of the situation and prior consultation with members of the public with a specific interest, it considers that the services referred to in paragraph two of the preceding Article cannot be provided on the territory of the Republic of Slovenia or parts thereof in normal commercial circumstances or by using public funds. In the context of the analysis of the situation, the Agency shall also take into account the data from the register referred to in paragraph one of Article 15 of this Act and the data on the forecast of network deployment referred to in Article 18 of this Act. The Agency may appoint different universal service providers to provide different parts of the universal service or to cover different parts of the territory of the Republic of Slovenia.

(3) If, on the basis of the analysis of the situation and the consultation with members of the public with a specific interest referred to in the preceding paragraph, the Agency concludes that there is no need to designate a universal service provider for a particular part of the universal service or for the coverage of a particular part of the territory of the Republic of Slovenia, it shall review at regular intervals, which may not exceed three years, whether the designation of a universal service provider is still necessary.

Article 169
(Designation of universal service provider)

(1) Unless otherwise provided for in this Chapter hereof, the Agency shall designate the universal service provider by a decision for a period of five years on the basis of the *mutatis mutandis* application of the provisions of Chapter V of this Act governing public tenders.

(2) The subject of the public tender shall be the provision of various services covered by the universal service and/or the provision of the universal service in a specific area or the entire territory of the Republic of Slovenia.

(3) In establishing the criteria for the selection of the universal service provider, the Agency shall take into account the objectives of reliability, quality and cost-effectiveness of the universal service.

(4) If the public tender is not successful, the Agency shall designate as universal service provider the operator which has:

1. the highest coverage in the area of access to the public communications network with associated infrastructure; or
2. the largest number of subscribers to public communications services at a fixed location; or
3. the highest number of subscribers to a publicly available internet access service at a speed as laid down by the general act referred to in Article 180 of this Act.

(5) The Agency shall comply with the principles of efficiency, objectivity, transparency and non-discrimination in the procedures pursuant to this Article.

(6) At least six months before the expiry of the decision referred to in paragraph one of this Article, the Agency shall determine, on the basis of data on the provision of the universal service, whether the overall availability of the facilities and services covered by the universal service is such that the universal service provider should be re-designated, taking into account the views of the members of the public with a specific interest.

(7) The Agency shall inform the European Commission of the universal service obligations imposed on the universal service provider or universal service providers referred to in paragraph one of this Article.

Article 170
(Transfer of local access network)

(1) A universal service provider shall notify the Agency in writing prior to the intended transfer of all or a substantial part of the assets of its local access network to another legal entity under different ownership.

(2) The Agency shall assess the effects of the intended transfer on the provision of an adequate broadband internet access service and a voice communication service at a fixed location in accordance with paragraph two of Article 166 of this Act. On the basis of its assessment, the Agency may, by way of a decision, impose, amend or repeal universal service obligations. If, as a result of the transfer, it is necessary to re-designate the universal service provider in a specific area or the entire territory of the Republic of Slovenia, the Agency shall apply the procedure referred to in the preceding Article.

Article 171
(Compensation of the net cost of universal service provision)

(1) The universal service provider may apply for compensation of the net cost of universal service provision referred to in paragraph two of Article 166 of this Act.

(2) The overall net cost of universal service provision shall be calculated as the difference between the net cost of the selected provider when operating with universal service obligations and when operating without universal service obligations, taking into account the benefits derived from the provision of universal service, including intangible benefits. The Agency shall prescribe in a general act the details of the method of calculation of the net cost and the intangible benefits to be taken into account in the calculation of the

net cost of universal service provision. In doing so, it shall take into account the defined starting points set out in the EU legislation governing universal service.

(3) Within 90 days of the end of the financial year, the universal service provider shall send to the Agency the accounting records and information on which the calculation of the net universal service cost is based. Failure to do so shall result in the loss of right to claim net cost.

(4) The accounts and information referred to in the preceding paragraph shall be audited or verified by the Agency or by an auditor selected by the Agency at the expense of the universal service provider in accordance with the provisions of the Act governing public procurement.

(5) The Agency shall assess whether the provision of the universal service may be an undue burden for the universal service provider. In that case, it shall calculate the net cost of universal service provision. If the universal service provider has been selected in a public tender, the Agency shall take into account the cost of universal service provision offered in the public tender. The Agency shall take into account the cost different from those offered by the universal service provider in the public tender only where there has been a change in the conditions taken into account in the public tender, and where the universal service provider demonstrates the justification for deviation from such cost on an objective and transparent basis. The Agency shall publish the results of the cost calculation and the results of the audit of the data provided to it by the universal service provider.

(6) If, on the basis of the calculation of the net cost of universal service provisions, the Agency finds that they do indeed constitute an undue burden, it shall, by way of a decision, set the amount of compensation, which may not exceed the calculated net cost.

(7) Upon the universal service provider’s request and subject to the conditions laid down in this Article, the universal service provider shall be compensated for the provision of the universal service from the compensation fund, which shall be established and administered by the Agency in that case.

Article 172
(Compensation fund and its operation)

(1) The compensation fund referred to in paragraph seven of the preceding Article shall be established by the Agency by opening a separate bank account and keeping separate accounting records for it.

(2) All operators operating in the territory of the Republic of Slovenia and having an annual revenue from the provision of public communications networks and/or the provision of public communications services exceeding EUR 2 million shall be required to contribute to the compensation fund referred to in the preceding paragraph, except for the providers of number-independent interpersonal communications services.

(3) The amount of the contribution for each operator shall be determined by the Agency on the basis of the proportion of its revenue from the provision of public communications networks and/or the provision of public communications services in relation to the revenue from the provision of public communications networks and public communications services of all operators referred to in the preceding paragraph in the territory of the Republic of Slovenia.

(4) A universal service provider whose calculated contribution to the compensation fund is less than the calculated compensation for the provision of universal service obligations shall not pay a contribution to the compensation fund. As compensation, such provider shall only be paid the difference between the calculated compensation and the calculated contribution.

(5) Liable operators referred to in paragraph two of this Article shall contribute the calculated liability to the compensation fund based on the Agency's decision. In its decision, the Agency shall also set the time limit for payment, which shall not be shorter than 30 days.

(6) By 31 March each year, operators shall inform the Agency of their revenue from the provision of public communications networks and public communications services in the previous year. If an operator fails to do so within the time limit set, the Agency shall take into account as revenue referred to in paragraph two of this Article the total revenue of the operator in the preceding year obtained on the basis of data from the Agency of the Republic of Slovenia for Public and Legal Records and Services.

(7) If the Agency has reasonable doubt regarding the truthfulness of the data reported by an operator, the Agency or, where appropriate and proportionate in view of the size and complexity, an auditor selected by the Agency in accordance with the provisions of the Act governing public procurement, may review the data and assess the revenue. The costs of the assessment shall be borne by the operator. If the assessed revenue differs substantially from the reported revenue referred to in the preceding paragraph, the Agency shall take into account the assessed revenue in its calculation.

(8) Information on compensation of the net cost of universal service provision, on the method of its allocation and use, and on the parts that were financed, shall be public. To this end, the Agency shall publish an annual report on compensation of the net cost of universal service provision, calculated net cost, intangible benefits taken into account in the calculation of net cost, and contributions paid.

Article 173
(Ensuring affordability of universal service)

(1) The Agency shall monitor the trends and levels of retail prices for the services referred to in paragraph two of Article 166 of this Act. In doing so, it shall cooperate with other authorities responsible for monitoring the trends and levels of prices on the market.

(2) The prices of individual services provided as universal service and the conditions attached thereto must be publicly disclosed, transparent and non-discriminatory.

(3) On the basis of the data collected under paragraph one of this Article, the Agency shall, by way of a decision, require providers of the services referred to in paragraph two of Article 166 of this Act operating in the territory of the Republic of Slovenia to offer to consumers with low-income or special needs tariff options or bundles different from those provided under normal commercial conditions, so that their access to the network and the use of the services referred to in paragraph two of Article 163 of this Act are not prevented. The foregoing shall be required when the Agency determines, on the basis of the data collected, that the prices referred to in paragraph one of this Article are too high relative to the average monthly wage in the Republic of Slovenia as published by the Statistical Office of the Republic of Slovenia, and where the prices grow by more than five percentage points faster than the cost-of-living index for the previous year. The Agency shall, by means of a general act, determine the method for observing the aforementioned criteria.

(4) The Agency may exempt a service provider referred to in paragraph two of Article 166 of this Act from the obligation referred to in the preceding paragraph by a decision on its proposal, if the service provider demonstrates that the imposition of the obligation would impose an excessive administrative or financial burden on it.

(5) The service providers referred to in paragraph three of this Article shall regularly inform the Agency of the details of tariff options and bundles. If the terms and conditions of the price tariffs and packages offered are not in accordance with paragraph three of this Article and/or are not transparent and publicly disclosed, the Agency may require that such tariff options or packages be modified or terminated. In doing so, the Agency shall cooperate with other authorities responsible for monitoring the trends and level of prices on the market.

(6) The service providers referred to in paragraph three of this Article shall be reimbursed by the ministry responsible for social affairs for the difference between the commercial price of the services referred to in paragraph two of Article 166 of this Act and the price to which low-income and special needs consumers are entitled in accordance with paragraph three of this Article, upon submission of appropriate evidence.

(7) The service provider shall submit the documentation for the reimbursement of the difference referred to in the preceding paragraph to the ministry responsible for social affairs once a year, by 31 March of the current year at the latest, for the previous calendar year. The ministry responsible for social affairs shall reimburse the difference within three months of receipt of the complete documentation.

(8) The documentation referred to in the preceding paragraph must contain the personal name and tax identification number of the beneficiary referred to in paragraph one of Article 174 of this Act, and proof that the service provider has concluded a contract for a special tariff option or package with the beneficiary for the period for which the reimbursement is claimed.

(9) The ministry responsible for social affairs shall obtain information for the verification of eligibility from the Pension and Disability Insurance Institute of Slovenia for the persons referred to in points 2 and 3 of paragraph one of Article 174 of this Act, and from the ministry responsible for defence for the persons referred to in point 2 who have been granted assistance and attendance allowance under the Act governing war disability.

(10) For the purposes of determining eligibility for special tariff options and packages referred to in paragraph three of this Article, the ministry responsible for education shall provide the ministry responsible for social affairs with information on children with special needs under the Act governing the placement of children with special needs, i.e. the personal name and the personal identification number (EMŠO) of the child concerned, in electronic form. The ministry responsible for social affairs shall match the information provided with information on the beneficiaries of the child care allowance under the regulations governing parental protection and family benefits.

Article 174
(Beneficiaries of special tariff options and packages)

(1) The following shall be beneficiaries of special tariff options or packages referred to in paragraph three of the preceding Article:

1. beneficiaries of cash social assistance or income support under the Act governing social assistance payments;
2. recipients of assistance and attendance allowance under the applicable legislation;

3. persons with at least 60% physical impairment due to hearing loss or at least 80% physical impairment of another kind;
4. children with special needs under the Act governing the placement of children with special needs;
5. beneficiaries of child care allowance under the regulations governing parental protection and family benefits.

(2) The eligibility referred to in point 1 of the preceding paragraph shall be demonstrated by a final decision of the authority establishing eligibility for social assistance or income support. Eligibility shall be valid for the period for which entitlement to social assistance or income support has been recognised.

(3) Eligibility referred to in point 2 of paragraph one of this Article shall be demonstrated by a final decision establishing entitlement to assistance and attendance allowance or by a remittance advice.

(4) Eligibility referred to in point 3 of paragraph one of this Article shall be demonstrated by a final decision or the opinion of a competent expert body.

(5) Eligibility referred to in point 4 of paragraph one of this Article shall be demonstrated by a decision on placement in accordance with the Act governing the placement of children with special needs.

(6) Eligibility referred to in point 5 of paragraph one of this Article shall be demonstrated by a final decision of the authority establishing eligibility for the child care allowance.

(7) If the beneficiary referred to in paragraph one of this Article is a minor or an adult placed under guardianship, eligibility shall be claimed by the parents or a legal representative for the minor, and by the guardian for the adult placed under guardianship. Eligibility shall be demonstrated by the documents referred to in the preceding paragraphs of this Article and by a certificate from the administrative unit certifying the members of the household at the subscriber's temporary or permanent address and the birth certificate or a final decision of the competent authority.

Article 175
(Measures for users with disabilities)

(1) End-users with disabilities shall be entitled to adapted terminal equipment which effectively enables end-users with disabilities to use and access the services referred to in paragraph two of Article 166 of this Act on an equal basis with other end-users, including equivalent access to emergency services, in accordance with the regulation governing technical aids for users with disabilities.

(2) The Government shall, by way of a decree, lay down other measures to ensure that end-users with disabilities have equivalent use of and access to the services referred to in paragraph two of Article 166 of this Act as other end-users, including equivalent access to emergency services. The financing of the measures shall be provided from the state budget.

Article 176
(Cost control)

(1) The service providers referred to in paragraph three of Article 173 of this Act shall be obliged to set tariffs and general conditions in such a way that subscribers to a

service provided as a universal service are not required to pay for capabilities or services which are not necessary or not required for that service.

(2) The Agency may require a service provider referred to in the preceding paragraph to provide its subscribers with the following cost control options:

1. itemised billing in accordance with Article 177 of this Act;
2. free selective blocking for outgoing calls or premium SMS or MMS, or, where technically feasible, other kinds of similar applications, to prevent calls or premium SMS or MMS, or, where technically feasible, other kinds of similar applications of certain types, or calls to certain types of numbers;
3. if the subscriber so requests, a pre-payment system for access to the public communications network and the use of voice communications services or internet access services for consumers;
4. phased payment of connection fees to the public communications network;
5. information on other low-cost tariffs, if available, at the request of the subscriber;
6. other means of controlling expenditure on voice communications services or internet access services, including free-of-charge alerts in the case of abnormal and excessive consumption patterns, if specified by the Agency in the decision referred to in paragraph three of Article 173 of this Act;
7. the facility for end-users to deactivate the ability for third party service providers to use the bill of a provider of an internet access service or a provider of a publicly available interpersonal communications service to charge for their products or services.

Article 177
(Obligation to issue itemised bills)

(1) The service provider referred to in paragraph three of Article 173 of this Act shall make available to the subscribers with whom it has a subscriber contract a specified level of itemised billing so as to allow verification and control of the use and charges incurred (the basic level of itemised bills). Such itemisation shall not include calls to freephone numbers, including emergency call numbers.

(2) The basic level of itemised bills shall be sent free of charge to subscribers on the issuing of each bill, unless the subscriber informs the service provider that they do not wish to receive itemised bills.

(3) The Agency shall, by means of a general act, prescribe a minimum set of elements which must be separately listed in the basic level of itemised bills.

(4) Itemised bills shall include an explicit mention of the identity of the provider and of the duration of the services charged by any premium service providers to the end-user, unless the end-user has requested that this information not be mentioned.

(5) The service providers referred to in this Article shall comply with the provisions of paragraphs four and five of Article 207 of this Act with regard to the protection of the privacy of calling users and called subscribers when issuing itemised bills.

(6) The service provider shall send the bill to the subscriber in electronic form, unless the subscriber has requested a paper bill. The issue of a paper bill at the request of the subscriber shall be free of charge for the subscriber.

Article 178
(Restriction or disconnection for reasons on the part of the subscriber)

(1) The universal service provider referred to in paragraph three of Article 173 of this Act may restrict access to their services or disconnect subscribers and terminate the subscriber contract only if the subscriber fails to settle due liabilities or breaches other conditions laid down in the subscriber contract. The service provider shall specify in the general terms and conditions what action shall be taken in the event of certain breaches and the time limit within which it shall be taken. The selected action and time limit shall be proportionate to those breaches and non-discriminatory.

(2) In the event of breaches, the service provider shall be obliged to send a warning to the subscriber using a reliable method, stating a reasonable time limit within which the subscriber must bring the breaches to an end or settle their liabilities, and the action to be taken by the operator if the subscriber fails to bring the breaches to an end or settle their liabilities even after the expiry of that time limit.

(3) Notwithstanding the provisions of the preceding paragraph, the service provider shall not be required to give prior notice to the subscriber of the implementation of the action if the breach constitutes an immediate and serious threat to public order, public security or public health, and if such action is provided for in the general conditions and terms. In no event may non-payment of bills be considered a breach which would require the implementation of an action without prior notice.

(4) Where technically feasible, the service provider shall be obliged to restrict access only to those services with regard to which the user is in breach of the subscriber contract, except in the case of abuse or persistent late payment or non-payment of bills. The service provider shall bear the burden of proving the lack of technical unfeasibility. The service provider shall not restrict access to and to the use of the single European emergency telephone number 112, the police number 113, the single European telephone number for reporting missing children 116 000 and access to the internet with a transmission speed of at least 30% of the transmission speed referred to in paragraph one of Article 180 of this Act.

(5) Where a service provider also provides goods and services other than electronic communications services to a subscriber, the non-payment of those goods or services shall not result in the restriction of the subscriber's access to electronic communications services.

Article 179
(Quality of universal service)

(1) The Agency shall prescribe by way of a general act the quality of universal service where it shall determine in particular the quality parameters, their threshold values and the methods of measurement of such parameters.

(2) The Agency shall, in the general act referred to in the preceding paragraph, also prescribe the content, form and method and frequency of publication of data on the quality of universal service.

(3) Universal service providers shall be obliged to submit data on the quality of universal service, including any changes thereto, to the Agency.

(4) The Agency shall monitor the quality of universal service, and may take action in accordance with the procedure referred to in Article 290 of this Act.

(5) If the Agency has reasonable doubt as to the truthfulness of the information referred to in paragraph three of this Article, it may order, *ex officio,* an independent audit, or

a review similar to such audit, of data on the quality of universal service provision at the expense of the universal service provider concerned.

(6) If the measured values of quality parameters for a particular universal service provider fail at least three times in a row to reach the threshold values, the Agency may initiate a procedure for the selection of a new universal service provider.

Article 180
(Transmission speed)

(1) The Agency shall, by way of a general act, determine the transmission speed appropriate for broadband internet access to enable end-users to participate socially and economically in society, and the time limit within which it must be achieved, which shall not exceed two years. In doing so, the Agency shall take into account the situation in the Republic of Slovenia and the minimum bandwidth available to the majority of end-users, as well as the BEREC report on best practices.

(2) The transmission speed referred to in the preceding paragraph must allow the use of the following services:
1. electronic mail,
2. search engines that allow searching for all types of information,
3. basic online tools for training and education,
4. online newspapers or news,
5. purchasing or ordering goods or services online,
6. job search and job search tools,
7. professional networking,
8. online banking,
9. e-government services,
10. social media and instant messaging,
11. standard quality calls and video calls.

(3) Upon expiry of the time limit laid down in the general act referred to in paragraph one of this Article, the Agency shall again review the circumstances which led to the setting of the transmission speed and, if necessary, set a new transmission speed by means of a general act.

Article 181
(Additional mandatory services)

(1) The government may, by way of a decree, define services additional to those referred to in paragraph two of Article 166 of this Act that are publicly available on the territory of the Republic of Slovenia, as well as their quality, by taking into consideration the development of electronic communications, the existing market provision of public communications services, the development strategy of the country as a whole and the interests of end users.

(2) If an additional service is not publicly available in a particular area of the Republic of Slovenia, or is not provided in the specified quality, a provider of additional services shall be selected for that area.

(3) The provider of the additional service shall be designated by the Agency by way of a decision based on a public tender on the basis of the *mutatis mutandis* application of the provisions of Chapter V of this Act, and by taking into consideration the principles of

effectiveness, objectivity and transparency. The subject of the public tender shall be the provision of an additional service in a specified area of the Republic of Slovenia. The selection criteria shall be, in particular, the ability to provide additional services and the cost of such provision.

(4) The selected provider of an additional service shall be obliged to provide such service cost-effectively and under the same conditions for all users.

(5) For the purposes of financing additional services, neither Article 172 of this Act nor any other compensation facility that would include operators' contributions in the Republic of Slovenia shall be applied. Subject to the *mutatis mutandis* application of Article 171 of this Act, the compensation of potential net costs of additional mandatory service provision shall be financed from the state budget.

Article 182
(Supervision)

The Agency shall supervise the implementation of the provisions referred to in this Chapter and the obligations imposed pursuant thereto.

XI. RIGHTS OF USERS

Article 183
(Prohibition of discrimination)

An operator's contractual terms and conditions and requirements for access to or for the use of its network or services shall not contain discriminatory provisions on the grounds of the nationality, residence or place of establishment of the end-user, unless the distinction is objectively justified.

Article 184
(Restriction of access to and use of services and applications)

(1) Access to and use of services and applications provided over electronic communications networks may only be withdrawn from or restricted for an end-user by a court in specific criminal proceedings, with due consideration for the principle of proportionality and in accordance with the Act governing criminal procedure.

(2) The provision of the preceding paragraph shall be without prejudice to the operator’s right to restrict access to or use of its services for other reasons under the conditions laid down by this Act.

Article 185
(Liable entities)

(1) Except for the provisions of the preceding Articles, the provisions of this Chapter shall not apply to operators that are micro-companies as defined by the Act governing companies, under the condition that they only provide number-independent interpersonal communications services.

(2) The operators referred to in the preceding paragraph shall be obliged to inform the end-users of the exemption referred to in the preceding paragraph before the conclusion of a contract.

Article 186
(Provision of information before the conclusion of a contract)

(1) Before the conclusion of a contract for public communications services, a service provider shall provide the consumer with information as required by the Act governing consumer protection, including the provisions relating to the conclusion of distance contracts or contracts concluded off-premises of the service provider, if the contract is concluded in such a manner, and information on:

1. any guaranteed minimum levels of the quality of service or, if none are offered, a statement to that effect;
2. any specific quality parameters for services other than internet access services;
3. if and to the extent possible, the connection and subscription fees and the prices of the services, if they are charged on a consumption basis;
4. the duration of the contract and the conditions for its renewal, if it is not an open-ended contract;
5. the period of commitment necessary for the subscriber to be able to benefit from promotional terms;
6. any charges imposed on the subscriber in the event of termination of the contract, including any charges payable as a result of early termination of the contract;
7. any fees associated with the return of terminal equipment, including information on unlocking the terminal equipment and any cost recovery with respect to terminal equipment;
8. any compensation in the event of delays in the porting of the number or abusive substitution, and information on the procedures involved;
9. the right of the consumer using pre-paid services to a refund, upon request, of any remaining credit in the event of switching the service provider, in accordance with paragraph five of Article 196 of this Act;
10. the consumer's right to compensation and refund arrangements which apply if contracted levels of quality of service are not met or if the provider responds inadequately to a security incident, threat or vulnerability; and
11. the type of action that might be taken by the provider in reaction to security incidents or threats or vulnerabilities.

(2) In addition to the information referred to in the preceding paragraph, the provider of internet access services or publicly available interpersonal communications services shall be obliged to also provide the consumer with information on:

1. latency, jitter and bundle loss for internet access services;
2. the time for the initial connection, failure probability, call signalling delays in accordance with Article 199 of this Act in the case of publicly available interpersonal communications services, and if the provider has concluded an appropriate service level agreement with the network operator;
3. any conditions of the use of terminal equipment which shall be without prejudice to the right of end-users to use terminal equipment of their choice in accordance with paragraph one of Article 3 of Regulation 2015/2120/EU;
4. any fees related to the use of terminal equipment referred to in the preceding point;
5. any special pricing schemes inside or outside the contract, whereby the information must include details of the type of service, the quantities already included in the billing period (such as MB, minutes, messages) and the prices of additional quantities;

6. the possibility of carrying forward unused quantities from the preceding billing period to the next billing period, where such possibility is contractually provided for in the pricing scheme;
7. the measures offered to ensure transparency of bills and monitoring of consumption;
8. prices for the use of services or calls to numbers subject to specific pricing conditions (e.g. calls to premium rate numbers, entertainment messaging services);
9. the prices of the individual elements of a bundle, in the case of bundle services or bundles including services and terminal equipment, where the individual elements of the package (e.g. terminal equipment) are also marketed individually;
10. the content, conditions and prices of after-sales, maintenance and customer support services;
11. the possibilities and means of obtaining up-to-date information on all applicable tariffs and maintenance costs;
12. the conditions for termination of the bundle services contract or for the termination of the contract for the individual elements covered by that contract;
13. personal data collected before and during the provision of the service, without prejudice to the obligations laid down in Article 13 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 9.5.2016, p. 1);
14. products and services intended for end-users with disabilities and how to obtain up-to-date information in this respect; and
15. the method of initiating the dispute settlement procedures referred to in Articles 283 and 284 of this Act.

(3) In addition to the information referred to in the preceding paragraphs, the provider of publicly available number-based interpersonal communications services shall also provide information on:
1. any restrictions on access to intervention services or to caller location information due to technical unfeasibility in the case of a publicly available number-based interpersonal communications service, and if this service allows calls to be made to numbers included in the numbering plan referred to in Article 98 of this Act or in the international numbering plan; and
2. the right of the subscriber to decide whether to include their personal data in the directory and the types of such data in the case of number-based publicly available interpersonal communications services.

(4) In addition to the information referred to in paragraphs one and two of this Article, the provider of internet access services shall also provide information on the content referred to in paragraph one of Article 4 of Regulation 2015/2120/EU.

(5) The information referred to in the preceding paragraphs must be provided in a clear and comprehensible manner and on a durable medium as defined in the Act governing consumer protection, or, where provision on a durable medium is not feasible, in a manner that allows the consumer to easily download the document containing that information, if it is in digital form. In that case, the service provider must expressly draw the consumer’s attention to the availability of that document and the importance of downloading it for the purposes of documentation, future reference and unchanged reproduction.

(6) At the request of an end-user with disabilities, the service provider must provide the information in an accessible format for end-users with disabilities, including in machine-readable form.

(7) The provisions of this Article shall also apply in the case where the contract is concluded with end-users that are micro or small companies as defined in the Act governing

companies or non-profit organisations as defined in the Act governing non-governmental organisations, unless they have expressly waived the application of this Article. Micro and small companies shall provide the service provider with an extract from the records of the Agency of the Republic of Slovenia for Public Legal Records, which shows that they meet the criteria for micro and small companies set out in the Act governing companies.

(8) The provisions of this Article shall not apply to the conclusion of contracts for the provision of machine-to-machine transmission services.

Article 187
(Summary of the contract)

(1) Before the conclusion of a contract, providers of public communications services referred to in the preceding Article shall provide the consumer, free of charge, with a concise and easily readable summary of the contract containing the main information referred to in paragraphs one to four of the preceding Article. The summary of the contract shall contain at least the following information:

1. the name and address or business name and registered office of the service provider and contact information for any complaint;
2. the main characteristics of each service provided;
3. the prices for activating the electronic communications service and the amount of any recurring or consumption-related charges where the service is provided for a direct monetary payment;
4. the duration of the subscriber contract and the conditions for its renewal and termination;
5. an indication of the extent to which products and services are designed for end-users with disabilities; and
6. with respect to internet access services, a summary of the information required pursuant to points (d) and (e) of paragraph one of Article 4 of Regulation (EU) No 2015/2120.

(2) Providers referred to in the preceding paragraph shall use the contract summary template set out in Commission Implementing Regulation (EU) 2019/2243 of 17 December 2019 establishing a template for the contract summary to be used by providers of publicly available electronic communications services pursuant to Directive (EU) 2018/1972 of the European Parliament and of the Council (OJ L 336, 30.12.2019, p. 274).

(3) If the summary of the contract referred to in paragraph one of this Article cannot be provided before the conclusion of the contract for objective technical reasons, the service provider shall provide it to the consumer without undue delay thereafter. In such case, the contract shall enter into force when the consumer has confirmed their agreement after reception of the contract summary.

(4) The provisions of this Article shall also apply to distance and off-premises contracts.

(5) The provisions of this Article shall also apply in the case where the contract is concluded with end-users which are micro or small companies as defined in the Act governing companies or non-profit organisations, unless they have expressly waived the application of this Article. Micro and small companies shall provide the service provider with an extract from the records of the Agency of the Republic of Slovenia for Public Legal Records, which shows that they meet the criteria for micro and small companies set out in the Act governing companies.

(6) The provisions of this Article shall not apply in the case of the conclusion of contracts for the provision of machine-to-machine transfer services.

Article 188
(Subscriber contracts)

(1) A subscriber contract for public communications services shall contain, in a clear and comprehensible form, at least information on the contracting parties, on the service and conditions of its provision, its price and other charges, if any, and on the duration of the contract. In the case of a subscriber contract concluded by a service provider with a pre-paid user, the particulars of the contracting parties shall not include the particulars of the pre-paying user.

(2) The information referred to in Article 186 of this Act and the summary of the contract referred to in the preceding Article shall become an integral part of the subscriber contract. Their content shall not be changed, unless the contracting parties expressly agree otherwise.

Article 189
(Bundled services)

(1) Where a subscriber contract with a subscriber who is a user contains at least an internet access service or a publicly available number-based interpersonal communications service for bundled services, or bundled services and terminal equipment, the provisions of Articles 187, 190, 191, 192, 193, 194 and paragraphs one to three of Article 197 of this Act shall apply to all elements of the bundled services, including, *mutatis mutandis*, those to which these provisions would not otherwise apply.

(2) The preceding paragraph shall also apply to end-users that are micro or small companies as defined in the Act governing companies, or non-profit organisations, unless they have expressly waived in writing the application of all or some of these provisions. Micro and small companies shall submit to the service provider an extract from the records of the Agency of the Republic of Slovenia for Public Legal Records showing that they meet the criteria for micro and small companies set out in the Act governing companies.

Article 190
(Duration of the subscriber contract and its termination)

(1) End-users may conclude a contract with providers of public communications services for a fixed term or for an indefinite term.

(2) A subscriber contract for a fixed term may also be concluded with the possibility of automatic prolongation. Service providers shall, at least 30 days before the contract is automatically prolonged, notify subscribers in a clear manner and on a durable medium, of the end of the contractual commitment and of the means by which to terminate the contract. At the same time along with the notification, service providers shall give subscribers the best tariff advice relating to the services subscribed to. Service providers shall provide end-users with best tariff information at least annually.

(3) Where a contract is concluded for a fixed period of time with the possibility of automatic prolongation, subscribers may, after automatic prolongation, terminate the contract at any time with a maximum one-month notice period and without incurring any costs. During the notice period, subscribers must pay to the service provider the charges for the services rendered.

(4) The provisions of this Article shall not apply to subscriber contracts for number-independent interpersonal communications services and to subscriber contracts for the provision of machine-to-machine transmission services.

Article 191
(Commitment period on conclusion of a subscriber contract)

(1) A subscriber contract with a subscriber who is a consumer may not provide for an initial binding commitment period exceeding 24 months.

(2) The extension of a subscriber contract to include additional services or terminal equipment provided or supplied by the same provider of number-based internet access services or publicly available interpersonal communications services shall not extend the commitment period of the initial contract, unless the consumer has expressly agreed to this when ordering the additional services or terminal equipment.

(3) Notwithstanding the minimum commitment period, the conditions and procedures for contract termination shall not act as a disincentive to changing the service provider. The consumer shall not be charged administrative costs when switching between subscriber bundled services at the same service provider and when terminating the subscriber contract after the expiry of the commitment period.

(4) Paragraphs one and two of this Article shall not apply to the commitment period of an instalment contract where the consumer has agreed in a separate contract to instalment payments exclusively for deployment of a physical connection, in particular with very high capacity networks. The exemption shall not apply to terminal equipment or internet access equipment, such as routers or modems included in an instalment contract.

(5) The provisions of this Article shall also apply to subscribers that are micro or small companies as defined by the Act governing companies, and to non-profit organisations, unless they have expressly waived the application of the provisions of this Article. Micro and small companies shall provide the service provider with an extract from the register of the Agency of the Republic of Slovenia for Public Legal Records showing that they meet the criteria for micro and small companies laid down in the Act governing commercial companies.

(6) The provisions of this Article shall not apply to subscriber contracts for number-independent interpersonal communications services and to subscriber contracts for the provision of machine-to-machine transmission services.

Article 192
(Changes in contract terms and conditions)

(1) Any unilateral change to the terms and conditions set out in a subscriber contract shall be notified by the service provider to subscribers at least 30 days before the proposed entry into force of the change. Subscribers shall be informed of their right to withdraw from the subscriber contract if they do not agree with the proposed changes in the manner provided for in paragraph 3 of this Article within 60 days of receipt of the notification. The service provider shall give the notification in a clear and comprehensible manner on a durable medium. The Agency may, by way of a general act, prescribe the form and manner of publication of the notification.

(2) The subscriber shall not have the right to withdraw from the contract referred to in the preceding paragraph if the change is proposed:

- solely for the benefit of the end-user; or
- is of a purely administrative nature and has no negative consequences for the end-user; or
- it is necessary in order to comply with this Act or the regulations adopted pursuant to it, other regulations and EU regulations directly applicable.

(3) If the subscriber exercises the option to withdraw from the contract, they shall not be liable to pay any additional charges (for example, charges for termination of the subscriber contract or other administrative charges, contractual penalties, amounts of benefits received or other agreed compensation).

(4) The provisions of the preceding paragraph shall be without prejudice to the outstanding and unpaid obligations of subscribers.

(5) Notwithstanding the provisions of paragraph three of this Article, the subscriber shall pay compensation for terminal equipment received at the promotional price and retain it. The service provider shall remove any obstacles to the use of the terminal equipment in another network no later than upon payment of the *pro rata* share of the value of the terminal equipment. The subscriber may choose to return the terminal equipment to the service provider in the condition in which it was delivered to them, taking into account its normal use, and to pay the user fee for the period of use of the terminal equipment, and the service provider shall refund the purchase price to them. In return, the service provider may offer to maintain the subscriber contract in force on the terms and conditions set out in the existing subscriber contract to a subscriber who wishes to exercise the right of withdrawal.

(6) Where the end-user chooses to retain terminal equipment bundled at the moment of contract conclusion, the compensation referred to in the preceding paragraph may not exceed its *pro rata temporis* value calculated on the basis of the value at the moment of the contract conclusion, or on the remaining part of the service fee until the end of the contract, whichever amount is smaller. The Agency may, by means of a general act, regulate the methodology for calculating the *pro rata* share of the value of the terminal equipment received.

(7) The provisions of this Article shall not apply to providers of number-independent interpersonal communications services.

(8) In the case of contracts for the provision of machine-to-machine transmission services, the provisions of this Article shall apply to consumers and micro and small companies as defined in the Act governing companies, and to non-profit organisations. Micro and small companies shall provide the service provider with an extract from the records of the Agency of the Republic of Slovenia for Public Legal Records showing that they meet the criteria for micro and small companies laid down in the Act governing companies.

Article 193
(Non-operation or poor operation of services)

(1) If there is a significant continued or frequently recurring discrepancy between the actual performance of an electronic communications service, other than an internet access service or a number-independent interpersonal communications service, and the level of quality specified in the contract, a subscriber who is a consumer shall notify the service provider of the discrepancy. If the discrepancy between the actual performance and the level of quality specified in the contract is not remedied by the service provider within 15 days, the consumer shall have the right to withdraw from the contract under the conditions set out in paragraphs three to five of the preceding Article.

(2) If the subscriber contract is concluded for bundled services referred to in Article 189 of this Act, the provision of the preceding paragraph shall also apply to the remaining elements of the bundled services.

Article 194
(Switching of internet access services providers)

(1) Providers of internet access services shall provide to their subscribers adequate information on the switching of internet access service providers, including information on compensation in the event of delay or abuse. The providers concerned shall provide the end-user with adequate information on switching as soon as the subscriber informs them of their intention to switch to another provider of internet access services.

(2) The transferring provider shall ensure continuity of service throughout the switchover process, unless it demonstrates that this is technically not feasible. The burden of proving the lack of technical feasibility shall be on the transferring provider. The transferring provider shall continue to provide its internet access service on the same terms to the subscriber until the receiving provider activates its internet access service.

(3) The receiving provider shall ensure that the activation of the internet access service occurs within the shortest possible time on the date and within the timeframe expressly agreed with the end-user.

(4) Loss of service during the switching process shall not exceed one working day.

Article 195
(Number portability)

(1) End-users shall be enabled by the providers of services based on the numbers in the telephone numbering plan referred to in Article 98 of this Act to retain their numbers when switching between service providers in the following cases:
1. for geographic numbers at a specific location,
2. for non-geographic numbers at any location.

(2) Notwithstanding the provision of the preceding paragraph, the provider shall not be obliged to ensure the porting of a number from a network providing services at a fixed location to a mobile network or in the reverse direction.

(3) The date on which the number portability is to be implemented shall be expressly agreed between the end-user and the receiving provider. The number must be activated in the receiving provider's network within one working day of the agreed date.

(4) Until the number is activated in the receiving provider's network, the transferring provider shall continue to provide services under the same conditions. Loss of service shall not exceed one working day.

(5) If the number porting process is unsuccessful, the transferring provider shall reactivate the number and the associated end-user services until the porting has been successfully completed.

(6) Ensuring number portability shall be at the expense of service providers. The charges that service providers apply to each other in relation to number portability shall be cost-oriented. No direct charges shall be applied to the end-user in the number portability process.

(7) An end-user may port a number to another provider under the provisions of this Article even after the termination of the subscriber contract within a minimum of one month after the effective date of the termination, unless that right is renounced by the end-user.

(8) The operator must, by 15 January of the current year, send to the Agency a list of the total number of all numbers, by types and sets, ported to other operators in the preceding year, and a list of all numbers ported to it in the preceding year, based on the situation as of 31 December of the preceding year as obtained from the administrator of the ported numbers central database. Operators may authorise the administrator of the ported numbers central database to send data on ported numbers to the Agency.

Article 196
(Switching process between providers of internet access services or number portability)

(1) An end-user shall initiate the switching between providers of internet access or the porting of a number with the receiving provider. The transferring provider shall cooperate in good faith with the receiving provider and shall not impede the switching or porting process. The two providers shall not cause delays in the switching and porting process, shall not abuse the process and shall not port numbers or switch end-users without their express consent.

(2) Upon successful conclusion of the switching process, the contract between the subscriber and the transferring provider of internet access services shall automatically be deemed terminated.

(3) Upon successful porting of a number, the contract between the subscriber and the transferring provider with regard to number-based services and the telephone numbering plan shall automatically be deemed terminated. With respect to any remaining services, the contract shall be deemed terminated only if the subscriber has expressly so requested.

(4) A contractor that fails to comply with the obligations laid down in Articles 194 to 196 of this Act, and in the event of delays and abuse in the switching process, and if the service is not provided within the agreed time or on the agreed date, shall be liable to pay the end-user appropriate compensation.

(5) In the case of pre-paid services, a subscriber who is a consumer may, on production of appropriate evidence showing a connection to a specific number, request the refund of any remaining credit from the transferring provider. The transferring provider may charge an administrative fee in connection with the refund only if this has been agreed in advance in the contract. In this case, any such fee may not exceed the actual costs incurred by the transferring provider in offering the refund.

(6) The Agency shall, by means of a general act, regulate in detail the method of switching and porting, the amount or method of calculation of compensation, and the technical and other requirements for compliance with the provisions of Articles 194 to 196 of this Act, in order to ensure the efficiency and simplicity of the switching and porting process. The foregoing shall include a requirement, where technically feasible, that the porting of a number be completed through over-the-air provisioning, unless the end-user requests otherwise. The Agency shall also lay down, by means of a general act, measures to ensure that end-users are informed and protected during the switching or porting process.

Article 197

(Transparency and publication of information)

(1) The Agency and the authorities competent for the surveillance of the functioning of the market shall encourage providers of internet access services and publicly available interpersonal communications services to publish transparent, comparable, relevant information on the applicable prices and tariffs, on any charges related to the termination of the contract, and on the general terms and conditions of access to, and use of, publicly available electronic communications services for end-users. Such information shall be published in a clear and comprehensible form and shall be kept up to date.

(2) The Agency shall ensure that the following information on providers of internet access services or publicly available interpersonal communications services is published:

1. the name or business name and address or registered office of the provider;
2. description of the services offered:
   (a) the scope of the services offered and the main characteristics of each service provided, including any minimum levels of quality of service where offered and any restrictions imposed by the provider on the use of terminal equipment supplied;
   (b) tariffs of the services offered, including information on communications volumes (such as restrictions of data usage, numbers of voice minutes, numbers of messages) of specific tariff plans and the applicable tariffs for additional communication units, numbers or services subject to particular pricing conditions, charges for access and maintenance, all types of usage charges, special and targeted tariff schemes and any additional charges, as well as costs with respect to terminal equipment;
   (c) after-sales, maintenance and customer assistance services offered and their contact details;
   (č) standard contract conditions, including contract duration, charges due on early termination of the contract, rights related to the termination of bundled offers or of elements thereof, and procedures and direct charges related to the portability of numbers and other numbering elements, if relevant;
   (d) details of products and services, including any functions, practices, policies and procedures and modifications in the operation of services specifically designed for end-users with disabilities;
   (e) in the case of providers of number-based interpersonal communications services, information on access to emergency services and caller location, or any limitation on the latter;
   (f) in the case of providers of number-independent interpersonal communications services, information on the extent to which access to emergency services may be supported or not, and
3. dispute resolution mechanisms, including those developed by the operator.

(3) The Agency shall, by means of a general act, prescribe which information referred to in the preceding paragraph is to be provided by providers of internet access services or publicly available interpersonal communications services themselves. The Agency may also prescribe additional requirements regarding the form and manner of publication of the information.

(4) The information shall be provided in a manner and in a format which enables end-users with disabilities to access such information, including a machine-readable format.

(5) End-users must be able to access, free of charge, an independent comparison tool which enables them to compare and evaluate the advantages of different providers of internet access services and publicly available number-based interpersonal communications services, and, where applicable, also publicly available number-independent interpersonal communications services. The published information shall be impartial and shall, as a

minimum, allow in one place a comparison of the prices, tariffs and quality parameters referred to in Article 199 of this Act.

(6) The comparison tool referred to in the preceding paragraph shall meet the following criteria:

1. it shall be operationally independent from service providers;
2. it shall clearly disclose the owners and operators of the comparison tool;
3. it shall set out clear and objective criteria on which the comparison is to be based;
4. it shall use plain and unambiguous language;
5. it shall provide accurate and up-to-date information and state the time of the last update;
6. it shall allow any provider to make available the relevant information on their services;
7. it shall include a broad range of offers covering a significant part of the market; where the information presented does not provide a complete overview of the market, a clear statement to that effect should be made before displaying results;
8. it shall provide an effective procedure to report incorrect information;
9. it shall allow the comparison of prices, tariffs and quality of service provision between offers available to consumers.

(7) Upon request by the provider of the tool, the Agency shall certify the compliance of the tool with the criteria referred to in the preceding paragraph.

(8) Providers of internet access services or publicly available interpersonal communications services shall, upon request, facilitate access to information published in open data formats in accordance with this Article, in order to make available a free of charge use of information for the purposes of preparing comparison tools.

(9) Where there is no comparison tool available on the market that meets the criteria set out in paragraph six of this Article, the Agency shall provide such tool. Providers of internet access services and interpersonal communications services shall provide the Agency with the information it needs to develop and maintain the tool.

(10) The Agency shall also encourage operators to adopt self-regulatory and co-regulatory measures, such as concluding voluntary codes of conduct.

Article 198
(Monitoring and control of consumption of services)

(1) The provider of internet access services and publicly available interpersonal communications services shall provide a subscriber who is a consumer with the means to monitor and control the consumption of services, if the subscriber pays for these services on the basis of actual time or volume consumption. For this purpose, providers shall notify subscribers free of charge before any volume or financial consumption limit, as established by the Agency by way of a general act, is reached, and upon reaching such consumption limit. The provider shall also ensure that the subscriber can switch off the notification option at any time.

(2) The provider shall, before the conclusion of the subscriber contract and throughout the subscription relationship, provide its subscribers with clear and comprehensible information on a regular basis on the options referred to in the preceding paragraph.

(3) The Agency shall, by means of the general act referred to in paragraph one, regulate in detail the method of implementation of this Article. For the purposes of ensuring the effective protection of end-users, the Agency may, by means of a general act, also

prescribe the provision of information on the level of consumption in relation to premium rate services and other services subject to particular pricing conditions.

(4) The provisions of this Article shall also apply to subscribers that are micro companies or small companies as defined in the Act governing companies, and non-profit organisations, unless they have expressly waived the application of these provisions. Micro companies and small companies shall provide the service provider with an extract from the register of the Agency of the Republic of Slovenia for Public Legal Records, which shows that they meet the criteria for micro companies and small companies laid down in the Act governing companies.

Article 199
(Quality of public communications services)

(1) The Agency may, by means of a general act, prescribe that providers of internet access services and publicly available interpersonal communications services which control at least some elements of the network must publish comparable, comprehensive, reliable and user-friendly information on the quality of their services, which shall be regularly updated. In the same manner, information on measures taken to ensure equal access for end-users with disabilities should also be provided. The Agency may prescribe that providers of publicly available interpersonal communications services must inform consumers if the quality of the services they provide depends on any external factors, such as control of signal transmission or network connectivity.

(2) Providers of publicly available interpersonal communications services shall also supply that information, on request, to the Agency and other competent authorities before its publication.

(3) The Agency shall, by means of a general act, regulate in detail the implementation of this Article, in particular by specifying the quality of service parameters that need to be measured, the relevant measurement methods, and the content and format of the information to be published as well as the manner of its publishing, including any possible quality certification mechanisms. In doing so, it shall take the utmost account of the BEREC guidelines.

(4) The Agency shall, by means of a general act, prescribe the manner in which compensation is to be paid by the providers referred to in paragraph one of this Article to their end-users in the event of non-operation or poor-quality operation of the public communications service.

(5) In implementing this Article, the Agency shall cooperate with the competent market surveillance authority.

Article 200
(Emergency communications)

(1) Providers of publicly available interpersonal communications services based on a number which allows internal calls to be made to the number or numbers from the national numbering plan referred to in Article 98 of this Act or from the international numbering plan have an obligation to ensure that end-users of these services, including users of public payphones, are able to access the emergency services through emergency communications free of charge and without having to use any means of payment, at the most appropriate public safety answering point (PSAP).

(2) The Ministry may, through its measures, promote access to emergency services also from electronic communications networks which are not public communications networks but which enable calls to public communications networks. These measures shall apply in particular to cases where the natural persons or legal entities controlling or operating that network do not provide alternative and easy access to emergency services.

(3) The provider of publicly available number-based interpersonal communication services shall ensure that end-users with disabilities are able to communicate in an emergency using spoken and sign languages and other forms of non-spoken languages. The provider shall provide such emergency communications in the manner and to the extent technically feasible. If the provider claims that it is not able to comply with the obligations in accordance with the preceding two sentences, the burden of proving the lack of technical feasibility to provide such emergency communications shall be on the provider.

(4) The provider of publicly available number-based interpersonal communications services shall be obliged to provide, free of charge, the transmission of emergency communications to the public safety answering point, including all necessary communication equipment, to the network termination point of the PSAP. In order to ensure the uninterrupted operation of the emergency communications transmission, the provider shall also provide free of charge alternative routes to the public safety answering point, including equipment, and/or in such a way that the authority is not required to undertake software or hardware upgrades. The alternative routes shall provide at least the same capacity (number of simultaneous connections), the same level of security and call quality, and comparable reliability and availability to that provided by the primary communication link. The contractor shall bear the burden of proving the extent of the lack of technical feasibility. For the transmission and termination of emergency communications, operators may agree on common transmission routes, including alternative routes.

(5) The provider of publicly available number-based interpersonal communications services shall, upon each communication to the single European emergency telephone number 112, the police number 113 and the single European telephone number for reporting missing children 116 000, immediately and free of charge provide information on the caller's number and location to the most appropriate public safety answering point. The information shall include network information from databases and, where available, caller location information obtained from mobile devices. The provider shall supply all information to the extent technically feasible. The provider shall bear the burden of proving the extent of any lack of technical feasibility.

(6) In order to ensure the most accurate possible location of the caller, in particular in the case of callers from multi-apartment buildings, the following shall also be considered information on the caller's location referred to in the preceding paragraph, if the provider is in possession of such information:

1. for natural persons: personal name and address of the fixed-line connection subscriber or mobile service subscriber, including the number of the building part,
2. for legal entities: the company name and address of the fixed-line connection subscriber, including the number of the building part.

(7) In mobile terrestrial networks, the provider of publicly available number-based interpersonal communications services shall provide, free of charge, the transmission of voice calls and the standardised minimum data set of the emergency call in-vehicle system (eCall) to the most appropriate public safety answering point handling it. In order to comply with this obligation, providers shall upgrade their network accordingly to recognise and forward the in-vehicle eCall to the public safety answering point handling it.

(8) A provider of publicly available number-based interpersonal communication services shall inform its users of the existence and use of emergency communications numbers, as well as of the means of ensuring accessibility, by means of publication on its website and in a directory in a prominent place. The notification shall include a warning that calls to the emergency numbers are recorded and information on the set of data to which the authorities handling emergency communications are entitled under the regulations governing the protection of personal data. It must inform its subscribers when entering the network of another EU Member State, of the existence and use of the single European emergency number 112 and of the elements of accessibility by text message (SMS). It shall, if technically feasible, inform the user using roaming services of the existence and use of the 112 emergency number by a text message (SMS) upon their entering its network, subject to prior agreement with the operator of such user. The content of the notification shall be determined by the authority responsible for handling emergency communications to the single European emergency number 112. Notifications shall be provided in a format that is accessible to end-users with different types of disabilities.

(9) Notwithstanding the provision of paragraph one of Article 222 of this Act, for outgoing calls from the single European emergency telephone number 112, the police number 113 and the single European telephone number for reporting missing children 116 000, the operators shall, as far as technically feasible, ensure that the outgoing call is uniquely displayed in the form of the three-digit call number 112, 113 or 116 000. Operators shall bear the burden of proving any lack of technical feasibility.

(10) Notwithstanding the provision of paragraph ten of Article 214 of this Act, in the case of a call to an emergency communications number, the caller need not be informed of the recording of the conversation at the time of the call itself.

(11) The Agency, in agreement with the minister responsible for civil protection and disaster relief and the minister responsible for internal affairs, shall prescribe by means of a general act the quality of service for the single European emergency telephone number 112, the police number 113 and the single European telephone number for reporting missing children 116 000, in particular by specifying the quality parameters, their limit values and the methods of measuring these parameters, as well as the criteria for ensuring accurate and reliable information on the caller location.

(12) The abuse of emergency communications shall be prohibited. Emergency communications shall be deemed abused by anyone who, despite a warning from the public safety answering point that they are abusing emergency communications, calls the emergency communications number at least three times in one day.

Article 201
(Public notification and warning)

(1) A provider of publicly available mobile number-based interpersonal communications services is obliged, for a fee, to establish and provide a system to enable, at the request of the authority responsible for protection and rescue, the notification and warning of end-users located in an area designated by such authority, through a public mobile network, in the event of imminent or developing natural or other disasters.

(2) In order to prevent negative consequences for the health or property of individuals, the provider referred to in the preceding paragraph shall, at the request of the competent authority for protection and rescue, establish and provide, for a fee, a system for the transmission of information on the number of mobile telephone users present in the area

referred to in the preceding paragraph, if technically feasible. The provider shall bear the burden of proving the lack of technical feasibility.

(3) The government shall, by means of a decree, regulate in detail the implementation of this Article, including its financing and/or co-financing.

Article 202
(Measures for users with disabilities)

(1) The Government may, if it deems it necessary, specify by means of a decree the requirements to be met by providers of publicly available electronic communications services in order to ensure that end-users with disabilities have access to electronic communications services, including relevant contractual information provided in accordance with Article 186 of this Act, equivalent to that of the majority of end-users, and that they have the option of choosing between providers and services available to the majority of end-users.

(2) In accordance with the Act governing the media, the Republic of Slovenia specifically supports the creation and dissemination of programme content intended for the blind and the deaf and for the deaf-and-blind, using techniques adapted to their needs, and the development of suitable technical infrastructure.

(3) The ministry responsible for regulating the conditions and requirements for the placing on the market of products shall, through its measures, encourage the availability of appropriate terminal equipment which provides end-users with disabilities with the necessary services and functions.

Article 203
(Interoperability of digital television equipment)

(1) The Ministry shall encourage providers of digital television services to facilitate, where appropriate, interoperability of the digital television equipment they provide to the end-users of their services.

(2) An end-user may, upon the expiry of the contract with a digital television service provider, return digital television equipment to the provider, unless the equipment is fully interoperable with the digital television services of other providers. The digital television service provider shall bear the burden of proving interoperability. The procedure for returning the equipment shall be simple and free of charge for the end-user.

(3) The Agency shall prescribe by a general act the requirements for the interoperability of digital interactive television services and digital television equipment used by consumers.

Article 204
(Radio and terminal equipment)

(1) Users shall not connect to the public communications network any radio or terminal equipment which does not comply with the requirements laid down in the regulations governing radio equipment, the regulations on electromagnetic compatibility and the regulations on low-voltage electrical equipment.

(2) Operators shall not refuse a reasonable request to connect a user's radio or terminal equipment which complies with the requirements of the regulations governing radio

equipment, the regulations on electromagnetic compatibility and the regulations on low-voltage electrical equipment.

Article 205
(Directories and directory enquiry services)

(1) Subscribers to publicly available number-based interpersonal communication services shall have the right to be entered in the universal directory referred to in Article 167 of this Act.

(2) Subscribers referred to in the preceding paragraph who wish to be included in the universal directory shall have the right to have their information made available to directory enquiry service providers and/or providers of directories.

(3) Providers of interpersonal communications services shall not prevent end-users from accessing, by means of a call or a text message, the relevant directory enquiry services in other EU Member States.

(4) Providers of number-based interpersonal communications services that assign numbers from the numbering plan to end-users shall comply with all reasonable requirements to make available to providers of directory enquiry services and/or directories the relevant information in an agreed format and on fair, objective, cost-oriented and non-discriminatory terms, for the provision of publicly available directory enquiry services and directories, including the universal directory enquiry service and the universal directory. In the event of a dispute between providers of number-based interpersonal communications services and providers of directory enquiry services and/or directories, the dispute shall be decided by the Agency pursuant to Articles 282 and 283 of this Act.

(5) The Agency may, by means of a decision, impose obligations and conditions on operators controlling access to end-users in relation to the provision of directory enquiry services in accordance with the procedure referred to in Article 130 of this Act.

Article 206
(Additional facilities and obligations)

If the Agency, following consultation with members of the public with a specific interest, finds that the facilities listed below are not sufficiently provided and/or obligations are not sufficiently met in all or part of the territory of the Republic of Slovenia, it may prescribe, by means of a general act, that operators providing internet access services or publicly available number-based interpersonal communications services be required to:

1. where technically feasible, provide a means of displaying the identity of the calling-line and provide data and signals to facilitate the calling party identification and tone dialling for calls to other EU Member States,
2. where technically feasible, on request of the end-user and free-of-charge, enable end-users who terminate their contract with a provider of an internet access service to either access their e-mails received at the e-mail address(es) of the former provider, during a period that the Agency considers appropriate for transferring e-mails, or to transfer e-mails sent to that (or those) address(es) during that period to a new e-mail address specified by the end-user,
3. provide all or some of the cost control options referred to in Article 176 of this Act, including cost control options for data services,
4. meet the obligations referred to in Article 178 of this Act.

Article 207
(Itemised billing)

(1) All subscribers to internet access services or number-based interpersonal communication services shall be entitled at least to a non-itemised bill sent by the service providers to the subscribers in the manner referred to in paragraph six of Article 177 of this Act.

(2) If the service providers referred to in the preceding paragraph offer, in accordance with their general terms and conditions and/or in accordance with the general act referred to in the preceding Article, the service of itemised billing, the provisions of Article 176 of this Act shall apply *mutatis mutandis.*

(3) Any itemised billing beyond the basic level of itemised billing referred to in paragraph one of Article 177 of this Act offered by the operator shall be specified in the general terms and conditions. If they are offered by the operator at a price, this price must be set at the level of the actual costs incurred by the operator with the additional itemising required. The foregoing shall be without prejudice to the possibility for other users and subscribers to pay for individual services separately, where technically feasible, in which case they shall not be included in the itemised bill.

(4) At the request of a subscriber, the operator shall issue an itemised bill referred to in the preceding paragraph with such level of called-number itemisation as to ensure the protection of privacy of calling users who are natural persons, and the privacy of called subscribers by omitting or masking the last three digits of called telephone numbers. The operator shall not be required to mask called numbers in the following cases:

1. in itemised billing for calls made between telephone numbers of the same subscriber;
2. if the subscriber is a consumer, or
3. if a subscriber who is a natural person or a legal entity carrying out a commercial or other independent activity on the market, requests unmasked itemised billing, attaching to such request a document indicating the user to whom the number, which is the subject of the request for itemised billing, was assigned, together with the user's consent to disclosure of called numbers, showing that the request is submitted for the purpose of demonstrating the justification of costs in excess of the agreed costs of a business phone. The operator shall submit the itemised bill to the user, who may mask the phone numbers of calls made for private purposes on the bill.

(5) The operator shall keep the request for the provision of itemised bills containing unmasked called numbers pursuant to point 3 of the preceding paragraph for one year after the submission date, and shall submit it to the competent authorities for inspection on request.

Article 208
(Restriction or interruption for reasons attributable to the operator)

(1) Operators may without the consent of users temporarily restrict or interrupt access to their services if necessary for upgrading, updating or maintenance, or in the event of faults or damage.

(2) Operators shall be obliged to announce restrictions or interruptions due to upgrading, updating or maintenance in the public media at least one day in advance, and at the same time to notify the Agency, whereas in the case of major restrictions or interruptions due to faults or damage, they shall be obliged to notify users and the Agency without delay.

(3) Restrictions or interruptions may only last as long as necessary for the implementation of relevant works and/or remedy of faults or defects.

(4) The Agency shall, by means of a general act, specify the method of implementation of this Article in detail.

Article 209
(Right to complaint and disputes)

(1) Every end-user shall have the right to complain against a decision or practice of an operator in relation to the rights and obligations laid down by this Act and regulations issued on the basis thereof, and by the contracts on the provision of electronic communications networks and/or services, to the appropriate authority or body established by the operator.

(2) Organisations which may bring an action under the Act governing collective actions may lodge a complaint for breach of the general terms and conditions and of the prices of operators in their business with users and consumers, and may also act under the provisions of paragraphs five to nine of this Article.

(3) An operator shall be obliged to record any report of an error concerning its decision or practice referred to in paragraph one of this Article and made by an end-user by means of a call to the operator's telephone number dedicated to the receipt of such calls.

(4) A complaint shall be lodged by the end-user within 15 days of the day on which the end-user became aware of the contested decision or practice referred to in paragraph one of this Article, but no later than within 60 days of the day on which the contested decision or practice which is the subject of the complaint occurred, whereby it shall be deemed that the complaint is lodged in due time even if lodged on the last day of the appeal period by registered mail. Should the time limit expire on a Saturday, Sunday, public holiday or non-working day, the complaint shall be deemed to be lodged in due time if lodged on the next working day.

(5) A complaint may also be lodged by calling the operator's telephone number dedicated to the receipt of error reports. The operator’s authorised person who receives telephone calls reporting errors shall record all information relevant to the lodging of such complaint. The operator shall be deemed to have received the complaint on the day on which it was communicated by a call to the operator's telephone number.

(6) If the end-user has sent the complaint by e-mail, the operator may send its decision on the complaint by e-mail to the address from which it was sent by the end-user, or to the e-mail address provided by the end-user in its electronic complaint.

(7) The operator shall explicitly state in its decision that it is its final decision and shall explain in the legal notice the possibility of initiating proceedings before the Agency and, for the consumer, also before the provider of out-of-court settlement of consumer disputes which meets the conditions and provides the procedure in accordance with the Act governing out-of-court settlement of consumer disputes, if the operator recognises such competence of providers of consumer dispute settlement, and shall state the time limit for bringing such a motion. If the operator does not recognise any provider of out-of-court settlement of consumer disputes as competent for the settlement of consumer disputes, it shall specifically warn the consumer of this in the legal notice.

(8) The decision on the complaint must be sent by the operator to the end-user in a manner which provides proof of receipt. In the case of transmission of the decision by electronic means, proof of receipt shall be assessed in accordance with the provisions of the Act governing electronic business and electronic signature.

(9) If the operator does not grant the complaint within 15 days of the lodging of the complaint, the end-user may, within 15 days of receipt of the decision, lodge a motion for dispute settlement with the Agency.

(10) If the operator does not take a decision on the complaint within 15 days of the lodging of the complaint, the end-user may submit a motion for dispute settlement with the operator.

(11) The end-user may also submit a motion for the settlement of the dispute with the Agency if the operator grants the end-user's complaint but then fails to fulfil its obligations within 15 days of service of the decision. In this case, the end-user may lodge a motion for dispute settlement within 15 days of the expiry of the time limit for compliance with the obligation.

(12) Notwithstanding the time limits referred to in paragraphs nine, ten and eleven of this Article, if the procedure before the provider of out-of-court settlement of consumer disputes does not result in a binding decision in accordance with the Act governing out-of-court settlement of consumer disputes, the consumer may, within 15 days of the date on which the procedure was concluded, lodge a motion for settlement of the dispute with the Agency.

(13) The Agency shall, by way of a decision, reject the application for dispute settlement if the motion is not lodged within the time limits referred to paragraphs nine, ten, eleven or twelve of this Article.

(14) If a subscriber lodges a complaint under this Article and/or proposes a dispute settlement under the procedure referred to in Article 283 of this Act, or if a consumer initiates proceedings under the Act governing out-of-court settlement of consumer disputes, the operator may not, until the final settlement of the dispute or until the final decision of the Agency, restrict access to its services or disconnect the subscriber due to non-payment of the obligation, and may not terminate the subscriber's contract if the subscriber has settled within the time limit the undisputed part of the invoice or an amount corresponding to the average value of the last three undisputed invoices.

(15) The Agency shall consider the motion for the settlement of the dispute in accordance with the procedure laid down in Article 283 of this Act.

(16) The manner and procedure for the resolution of end-user complaints shall be specified by the operator in the general terms and conditions.

Article 210
(Supervision)

The Agency shall supervise the implementation of the provisions of this Chapter. In supervising the implementation of paragraph one of Article 204 of this Act, the Agency shall only supervise the functioning of radio or terminal equipment in operation, and in doing so, shall cooperate and act in coordination with the inspector responsible for supervising goods on the market, subject to the *mutatis mutandis* application of Article 288 of this Act.

XII. PROCESSING OF PERSONAL DATA AND PROTECTION OF PRIVACY OF ELECTRONIC COMMUNICATIONS

Article 211
(Definition of the term user and controller and the services included)

(1) For the purposes of this Chapter, a user means a natural person who uses public communications services for private or business purposes without necessarily having subscribed to such service.

(2) The controller for the purposes of this Chapter means personal data controller in accordance with the regulations governing the protection of personal data.

(3) This Chapter regulates the processing of personal data in relation to the provision of public communications services on public communications networks, including public communications networks supporting data collection and identification devices.

Article 212
(General provisions on the security of processing)

(1) Providers of public communications services shall take appropriate technical and organisational measures to ensure the security of their services. Where necessary to ensure the security of their services in so far as it relates to network security, they shall take appropriate technical and organisational measures jointly with the provider of the public communications network.

(2) The measures shall, taking into account technological developments and the costs of their implementation, ensure a level of security and protection appropriate to the risk envisaged. In particular, any act, service or product which interferes with the secrecy, confidentiality and security of an electronic communications network or an electronic communications service by altering the availability, content, price or quality of the service and which can be effectively prevented by the operator alone or jointly with other operators shall constitute a risk.

(3) The measures referred to in the preceding paragraph shall at least:

1. ensure that only authorised personnel have access to personal data for purposes permitted by law;
2. protect personal data stored or transmitted against accidental or unlawful destruction, accidental loss or alteration and unauthorised or unlawful storage, processing, access or disclosure; and
3. ensure the implementation of the security policy in the processing of personal data.

(4) The Agency shall carry out periodic reviews of the measures taken by providers of public communications services and may make recommendations on best practices as to the level of protection that these measures should achieve.

(5) If the Agency considers that the recommendations referred to in the preceding paragraph would not or do not achieve the appropriate level of security and protection referred to in this Article, it shall issue a general act for its implementation. Such a proposal may also be made to the Agency by the authority responsible for information security.

Article 213
(Obligation to notify subscribers in the event of a specific network security risk)

(1) In the event of a specific network security risk, a provider of public communications services shall, as soon as it becomes aware of that risk, inform subscribers of that risk by means of a publication on its website and by any other appropriate means. If the risk is beyond the scope of the measures that the service provider can take, it must at the same time inform subscribers of all possible means of addressing the risk, including an indication of the likely costs, and give them prompt and effective access to the protective measures.

(2) In the case of abuse by third parties which is not attributable to subscribers or users, public communications service providers shall bear the costs of providing public communications services incurred by them as a result of such abuse. Abuse shall be deemed not to be attributable to the subscriber or user where the latter has taken all reasonable measures to protect themselves and has complied with the instructions notified to them by the public communications service provider in accordance with the preceding paragraph.

Article 214
(Confidentiality of communications)

(1) The confidentiality of communications shall be guaranteed by this Act in order to protect the expected privacy in the use of electronic communications, to ensure freedom of communication and freedom of expression. Confidentiality of communications shall apply to:

1. the content of communications,
2. traffic data and location data relating to the communications referred to in the preceding point,
3. facts and circumstances related to the interruption of a connection or unsuccessful attempts to establish a connection.

(2) The operator and anyone involved in the provision and performance of its activities shall protect the confidentiality of communications even after the cessation of the activities in which the operator was bound by confidentiality obligations.

(3) The persons liable referred to in the preceding paragraph may obtain information on the communications referred to in paragraph one of this Article only to the extent strictly necessary for the provision of certain public communications services and may use or communicate that information to others only for the purpose of providing those services.

(4) If, pursuant to the preceding paragraph, controllers are required to obtain information on the content of communications, to record or store communications and related traffic data, they shall inform the subscriber or user thereof at the time of conclusion of the subscriber contract or at the time of commencement of the provision of the public communications service, and shall delete the information on the content of the communication and/or the communication itself as soon as it is technically feasible and the data are no longer necessary for the provision of the specified public communications service.

(5) All forms of surveillance and/or interception of communications by third parties other than the users involved in the communication, such as listening to, intercepting, recording, storing and forwarding the communications referred to in paragraph one of this Article without the consent of the users concerned, shall be prohibited, unless permitted pursuant to the preceding paragraph or pursuant to Articles 220 and 228 of this Act, or unless such form of surveillance or interception is strictly necessary for transmission of the

communications (e.g. fax messages, electronic mail, electronic mailboxes, voicemail, SMS service).

(6) The recording and storage of communications without the prior consent of the participants in the communication shall also be prohibited for users in the case of communications where such data processing is not usual and is not and cannot be expected in advance by the participants in the communication due to its nature.

(7) Notwithstanding the provisions of paragraph five of this Article, the recording of communications and related traffic data in the course of legitimate business practice for the purpose of providing evidence of a commercial transaction or any other commercial communication shall be permitted, provided that the parties to the communication are informed in advance of the recording, its purpose and the duration of the retention of the recording (e.g. by automatic answering machines). The recorded communication must be deleted without delay, at the latest by the expiry of the period during which the transaction may be lawfully challenged.

(8) Notice of the recording must be given through the same medium and in the same format as the recorded communication.

(9) Notwithstanding the provision of paragraph seven of this Article, notice of the recording shall not be required in the case of calls to an operational telephone number which is not intended for the public and which is operated by a provider of essential services designated under the Act governing information security. The essential service provider shall define the meaning and use of the operational telephone number in the security documentation.

(10) Notwithstanding the provisions of paragraph five of this Article, the recording of the content of communications and the obtaining of related data referred to in paragraph one of this Article shall also be permitted in the framework of organisations and state bodies responsible for the performance of intelligence and security tasks, police, defence and protection tasks, rescue and disaster relief tasks, provided that calling users are informed in advance of the recording, its purpose and the duration of the retention of the recording (e.g. automatic answering machines). Other national authorities shall be allowed to record the content of communications where so provided by law.

Article 215
(Subscriber information)

(1) Service providers may collect the following information on their subscribers:

1. personal name and/or registered company name of the subscriber and its organisational form;
2. subscriber’s address, including the part of the building,
3. subscriber's number and other numbering resources used to establish connection with the subscriber;
4. at the subscriber's request, academic, scientific or professional title, website address and other kinds of personal contacts (e.g. IM-address) or e-mail address;
5. tax number for a natural person, and tax identification and registration numbers for a legal entity;
6. on the basis of the subscriber’s payment, additional information if so desired by the subscriber, provided that this does not interfere with the rights of third parties.

(2) Service providers may only process the information collected under the preceding paragraph for:

1. the conclusion, implementation, monitoring and termination of subscriber contracts;
2. the billing of services;
3. the preparation and issue of directories under this Act;
4. the provision of caller location information for calls to emergency numbers;
5. for other lawful purposes, subject to the subscriber’s consent.

(3) The information referred to in paragraph one of this Article may be retained by the service providers referred to in paragraph one of this Article after the termination of a subscriber contract and until full payment for the services has been made, but no longer than until the expiry of the limitation period for their claims for the services provided, except in cases where a longer retention period is laid down by this Act with regard to the monitoring and control of the consumption of data services (Article 198 of this Act), with regard to public notification and warning (Article 201 of this Act), with regard to internal procedures (Article 216 of this Act), with regard to the securing and indelible registration of the transmission of traffic and location data in cases of protection of life and limb (Article 220 of this Act), with regard to the tracing of malicious or nuisance calls (Article 223 of this Act) and with regard to the legal interception of communications (paragraph five of Article 228 of this Act).

Article 216
(Internal procedures)

(1) Service providers shall, for the purposes of ensuring the security of personal data processing and subject to paragraph three of Article 212 of this Act, establish internal procedures for responding to requests from competent authorities for access to users' personal data pursuant to sectoral laws. They must keep indelible records of their response to these requests, including information on the number of requests received and the applicants, the legal basis for these requests and their response to them, i.e. whether or not the data have been provided, for eight years.

(2) By 31 March, service providers must provide the Information Commissioner with information for the previous year on the internal procedures referred to in the preceding paragraph, as well as information on the number of requests received and the applicants, the legal basis for those requests and their response to them.

Article 217
(Directories)

(1) Before their data are included in a printed or electronic directory available to the public or used by directory enquiry services, subscribers must be notified free of charge of the purposes of such directory and of any further possible uses of such data, in particular on the basis of search functions. The publisher of the directory shall bear the costs of notification.

(2) Subscribers must be able to decide for themselves, with their prior consent, whether their personal data as defined in paragraph one of Article 215 of this Act are to be entered in the public directory and which of these data are to be entered. If the subscriber decides that their personal data is to be entered in the public directory, the information referred to in points 1 and 2 of paragraph one of Article 215 of this Act shall be entered in the directory in that case as mandatory, with the exception of the information on the part of the building referred to in point 2 and the subscriber's telephone number. Subscribers shall be allowed to check the entered data and request their change or deletion.

(3) Subscribers must be able to prohibit the use of their personal data for calls with a commercial or research purpose. Subscribers may prohibit the use of their personal data for both purposes or for only one of those purposes at the time of entry in the directory or at any time thereafter. The publisher of the directory must clearly indicate in the directory the prohibition of the use of the subscriber's personal data for a particular purpose. If the subscriber prohibited the use after the entry in the directory or substantively changed the prohibition, the publisher of the directory must indicate the change in the directory without delay in the first next issue of the directory.

(4) Subscribers shall not be charged for refusing to be entered in a public directory, or for checking, changing or deleting personal data referred to in paragraph two of this Article, as well as for entering a prohibition on the use of their personal data for the purposes referred to in the preceding paragraph, or entering changes to such prohibitions.

(5) Legal entities or natural persons making calls for commercial or research purposes shall, for each call, comply with the prohibition on the use of the subscriber's personal data indicated in the latest published electronic directory, insofar as these indications differ from those in the printed directory of the same publisher.

Article 218
(Traffic data)

(1) Traffic data relating to subscribers and users which have been processed and retained by the operator must be deleted or modified so that they cannot be linked to a specific or identifiable person as soon as they are no longer necessary for the transmission of messages, except in the case of data for which a longer retention period is provided for under this Act with regard to the monitoring and control of the consumption of data services (Article 198 of this Act), with regard to public notification and warning (Article 201 of this Act), with regard to internal procedures (Article 216 of this Act), with regard to the securing and indelible registration of the transmission of traffic and location data in cases of protection of life and limb (Article 220 of this Act), with regard to the tracing of malicious or nuisance calls (Article 223 of this Act), and with regard to the lawful interception of communications (five paragraph of Article 228 of this Act).

(2) Notwithstanding the provision of the preceding paragraph, operators may retain and process traffic data required for billing and interconnection payments until services have been paid in full, but no longer than until the expiry of the statutory limitation period.

(3) Providers of public communication services may, for the purposes of marketing electronic communications services or for the provision of value-added services, only process data referred to in paragraph one of this Article, to the extent and for the duration necessary for such marketing or services, and with the prior consent of the user to whom such data refer. Subscribers and/or users must be informed of the types of traffic data processed and the purpose and duration of such processing prior to giving consent. Users or subscribers shall have the right to withdraw their consent at any time.

(4) Service providers shall be obliged, for the purposes referred to in paragraph two of this Article, to specify in the general terms and conditions which traffic data will be processed and for how long.

(5) Traffic data may be processed in accordance with the preceding paragraphs of this Article only by authorised persons who, under the operator’s supervision, are responsible for billing or traffic management, for answering consumer queries, detecting fraud, marketing

electronic communications services or providing value-added services, provided that such processing is limited to the extent necessary for the purposes of such activities.

(6) Notwithstanding the provisions of paragraphs one, two, three and five of this Article, operators shall, on a written request made for the purposes of dispute resolution, in particular disputes relating to interconnection or billing, and in accordance with the applicable legislation, transmit traffic data to the Agency, a provider of an out-of-court settlement of consumer disputes in accordance with the Act governing out-of-court settlement of consumer disputes, or the competent court.

(7) The Agency shall monitor the implementation of the provisions of this Article at least once every two years.

Article 219
(Location data other than traffic data)

(1) Location data other than traffic data relating to users or subscribers may be processed only in such a form that they cannot be linked to a specific or identifiable person, or on the basis of the prior consent of the user or subscriber, to the extent and for the duration necessary for the provision of the value-added service. Users or subscribers may withdraw this consent at any time.

(2) Before giving consent in relation to the processing of data referred to in the preceding paragraph, users or subscribers must be informed of:
1. the option of refusing the consent;
2. the type of data to be processed;
3. the purpose and duration of such processing;
4. the possibility of transmitting such location data to third parties for the purposes of providing a value-added service.

(3) Users or subscribers who have consented to the processing of the data referred to in paragraph one of this Article shall have the option, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the network, or for each transmission of a communication.

(4) The data referred to in paragraph one of this Article may be processed in accordance with the preceding paragraphs of this Article only by persons under the supervision of the operator or by third parties providing a value-added service, and such processing must be limited to what is necessary for the provision of the value-added service.

(5) For calls to the single European emergency number 112, the police number 113 and the single European telephone number for reporting missing children 11 6000, operators must, in accordance with paragraph five of Article 200 of this Act, transmit to the competent authorities the location data referred to in paragraph one of this Article, even in cases where the user or subscriber has temporarily refused the processing of the data referred to in paragraph one of this Article, or has not consented to the processing thereof.

(6) The provisions of paragraphs one to four of this Article shall not apply to location data which are not at the same time traffic data, for the purposes of the implementation of Article 220 of this Act.

Article 220
(Transmission of traffic and location data in cases of protection of life and limb)

(1) In order to protect the vital interests of an individual, the operator shall, if necessary in the circumstances of a particular case, on the basis of a written request from the police, provide the police with the information necessary to establish the last location of mobile communication equipment or, if technically possible, the last several locations of equipment, in the following instances:

1. if there is a justified probability that the life or limb of a person who is in possession of, or is believed to be in possession of, mobile communication equipment is in imminent danger and it is necessary to obtain that information in order to prevent death or serious injury to that person;
2. if the obtaining of the information is necessary in order to locate a person who has been deprived of or restricted in their legal capacity or who has been diagnosed as having a medical condition indicating a risk to their life or limb and who has been reported missing and who is carrying, or is presumed to be carrying, mobile communication equipment; or
3. if the acquisition of the information is necessary in order to locate a child who has been reported missing by their parents or legal guardians and who is carrying, or is presumed to be carrying, mobile communication equipment.

(2) A reasoned request for the provision of information necessary to establish the last location of mobile communication equipment shall be made in writing by the police to the operator. The request shall be signed in manuscript or electronically by a qualified electronic signature. Exceptionally, a scan of the handwritten document may also be sent by electronic means if this is necessary in the circumstances of the case.

(3) The data necessary to establish the last location of mobile communication equipment of a person shall be the data on the location code (Cell ID) at the beginning of the communication and the data identifying the geographical location of the cells with their location codes (Cell ID) during the period for which they are retained, the data on the communication and other data processed by the operator in the databases of personal and other data, which are capable of enabling the last location of the person’s mobile communication equipment to be established more accurately.

(4) The police shall keep all documentation and findings which are the basis for the request as well as the request itself referred to in paragraph one of this Article in the manner and under the conditions referred to in paragraph one of Article 221 Act of this Act, and shall ensure an indelible registration of the measures and interventions carried out in accordance with paragraph two of Article 221 of this Act.

(5) The operator shall retain the data sent on the basis of the request referred to in paragraph one of this Article in the manner and under the conditions referred to in paragraph one of Article 221 of this Act, and shall ensure an indelible registration of the measures and interventions carried out in accordance with paragraph two of Article 221 of this Act.

(6) The minister responsible for internal affairs shall, after the prior opinion of the Information Commissioner, prescribe in detail the manner of sending the request, the processing of the data transmitted, the internal control in terms of the method and/or technical issues of personal data processing and the technical specifications of the information system for the implementation of the tasks referred to in paragraph one of this Article.

(7) Based on a request received under paragraph one of this Article, the operator shall send the requested data to the applicant lodging the request within the shortest possible time, or as soon as technically feasible. Operators shall bear the burden of proof of any lack of technical feasibility.

(8) The police shall as soon as possible inform in writing the person whose location data it requested and obtained pursuant to this Article, unless so doing would prejudice the interests of the person or interests of other persons close to them in the instances referred to in paragraph one of this Article while such circumstances persist, but not for more than one year.

(9) The police may not send the data obtained under this Article to persons who reported the missing persons and children referred to in points 2 and 3 of paragraph one of this Article, if the provision of such data would endanger the personal safety or dignity of the persons or children, particularly in the light of regulations governing witness protection, restraining orders, or the prevention of domestic violence.

(10) Inspection supervision of the processing of data referred to in paragraph one of this Article shall be carried out by the Information Commissioner at least once a year.

Article 221
(Data protection and indelible registration)

(1) The police shall secure all documentation and findings referred to in paragraph four of the preceding Article and the request referred to in paragraph one of the preceding Article, and the operators shall secure all data referred to in paragraph five of the preceding Article in accordance with the regulations governing the protection of personal data. In this respect, they shall take appropriate technical and organisational measures to protect such data against destruction, loss or alteration and against unauthorised or unlawful forms of storage, processing, access or disclosure.

(2) Operators and the police who may request access to data necessary to establish the last location of mobile communication equipment pursuant to the preceding Article shall ensure that an indelible registration is kept for a period of 10 years of the measures and interventions carried out pursuant to the preceding Article and shall, within that period, also keep the data obtained and handed over from the date on which the data were communicated to the police, and shall protect them in accordance with the classification level of the request.

(3) Inspection supervision of implementation of the provisions of this Article shall be performed by the Information Commissioner at least once a year.

Article 222
(Calling and connected line identification display)

(1) If a service provider offers calling line identification, before each call the calling user must have the option, using a simple means and at no charge, of blocking the calling line identification display. The subscriber may request the electronic communications service provider to do so automatically and free of charge for all calls made from its connections.

(2) Notwithstanding the provisions of the preceding paragraph, operators shall be obliged free of charge to override calling line identification blocking for emergency calls.

(3) If a service provider offers calling line identification, the called subscriber must have the option, using a simple means, and free of charge for reasonable use of this function, of blocking calling line identification for incoming calls.

(4) If a service provider offers calling line identification and calling line identification is displayed before the connection is established, the called subscriber must have the option,

using a simple means, of rejecting incoming calls where the calling line identification has been blocked by the calling user or subscriber.

(5) If a service provider offers connected line identification, the called subscriber must have the option, free of charge and using a simple means, of blocking connected line identification from the calling user.

(6) Service providers shall be obliged to publish the option of displaying and blocking calling and connected line identification in their general conditions.

(7) The provisions of paragraph one of this Article shall also apply to calls originating in EU Member States and terminating in third countries. The provisions of paragraphs three, four and five of this Article shall also apply to incoming calls originating in third countries.

Article 223
(Tracing malicious or nuisance calls)

(1) If a subscriber requests in writing that the operator trace malicious or nuisance calls, the operator may temporarily, but for no more than three months, record the origin of all calls terminating at the network termination point of such subscriber, including those for which calling line identification blocking has been requested.

(2) Operators shall be obliged to retain data on tracing, and to inform in writing the subscriber who requested tracing of malicious or nuisance calls, of the results of tracing, i.e. the identification code of the caller (e.g. telephone number).

(3) Only if the subscriber proves a legal interest in protecting their rights before a court shall the operator submit to them data disclosing the identity of a calling subscriber, and the operator shall also inform the calling subscriber and the Information Commissioner thereof.

(4) Operators shall ensure the retention of data collected pursuant to this Article, giving due consideration to the measures referred to in paragraph three of Article 212 of this Act, for a period of three years from the date of their delivery to the subscriber.

(5) The Information Commissioner shall monitor the implementation of the provisions of this Article.

Article 224
(Call forwarding)

Operators shall enable subscribers to block automatic call forwarding by a third party to the subscriber's terminal, using a simple means and at no charge.

Article 225
(Cookies)

(1) Retaining data or gaining access to data stored in the terminal equipment of subscribers or users shall only be permitted if the subscriber or user gave their consent after clear and full prior notification of the administrator and purpose of processing of such data, in accordance with the Act governing personal data protection.

(2) Notwithstanding the provisions of the preceding paragraph, technical storage of or access to data shall be permitted for the sole purpose of carrying out or facilitating the transmission of a message over an electronic communications network, or if necessary for the provision of an information society service which the subscriber or user explicitly requested.

(3) Where technically feasible and effective and in accordance with the regulations governing personal data protection, the user shall also be deemed to be able to express the consent referred to in the first paragraph of this Article by using the relevant settings in the browser or other applications. A user's or subscriber's consent means personal consent in accordance with the regulations governing personal data protection.

(4) Where both the rules on notification and consent of an individual referred to in paragraph one of this Article and the regulations governing personal data protection are breached, the provisions of this Act shall apply.

(5) Inspection supervision of the implementation of the provisions of this Article shall be performed by the Information Commissioner.

Article 226
(Unsolicited communication)

(1) The use of automated calling and communication systems to make calls to subscribers' telephone numbers without human intervention (e.g. automatic calling machines, SMS, MMS), or send faxes or electronic mail for the purposes of direct marketing, shall only be permitted on the basis of a subscriber’s or user’s prior consent.

(2) Notwithstanding the provisions of the preceding paragraph, natural persons or legal entities that obtain electronic mail addresses from customers for their products or services may use such addresses for direct marketing of similar products or services, but they shall be obliged to give their customers the option at any time, free of charge and using a simple means, of preventing such use of their electronic address when these contact details are obtained, and at the time of each communication, if the customer has not already refused such use at the outset.

(3) The use of direct marketing means by electronic communications other than those laid down in the preceding two paragraphs of this Article, shall only be permitted with the consent of the subscriber or user. Refusal of consent shall be free of charge for subscribers or users. When using a voice communication service, the provisions of paragraphs three, four and five of Article 217 of this Act must also be taken into account.

(4) Paragraphs one and three of this Article shall apply to subscribers who are natural persons.

(5) The sending of electronic mail for the purposes of direct marketing in contravention of the Act governing electronic commerce in the market, by concealing or disguising the identity of the sender on whose behalf the message is sent, and without a valid address to which the recipient may send a request to cease sending such messages, shall be prohibited. The sending of electronic mail for the purposes of direct marketing inviting recipients to visit websites that are in contravention of the aforementioned act shall also be prohibited.

(6) A natural person or a legal entity may use the e-mail address of natural persons for electronic mail, provided that the legal entity makes that e-mail address publicly available as its contact e-mail address.

(7) Notwithstanding any supervision procedure due to breach of the provisions of this Article, any natural person or legal entity that has suffered damage due to a breach, including the service provider protecting its business interests and the interests of its customers, shall have a legal interest in bringing a civil action and/or in obtaining an interim decision against the person or entity breaching the provisions of this Article.

Article 227
(Violation of security of personal data)

(1) Where personal data protection is breached, the public communications service provider must immediately notify the Agency.

(2) The subscribers or individuals whose data and privacy could be adversely affected by the breach of personal data protection must be notified, without delay, by the service provider referred to in the preceding paragraph, of such breach.

(3) Notification referred to in the preceding paragraph shall not be necessary where the public communications service provider satisfactorily demonstrates to the Agency that it has taken the necessary technical safeguarding measures, and that such measures have been applied to the data affected by the breach of personal data protection. By applying these measures, the public communications service provider shall ensure that such data are unrecognisable by all those not allowed to access them.

(4) Where a public communications service provider fails to notify the subscriber or individual concerned of the breach of personal data protection, the Agency, after examining the potential adverse effects of such breach, may order it to notify the subscriber or individual concerned of such breach. The public communications service provider shall notify the Agency of its compliance with such obligation.

(5) The notification of a subscriber or individual referred to in paragraphs two or four of this Article shall include at least a description of the breach of personal data protection, contact addresses for further information, and recommendations to mitigate the potential adverse effects of the personal data protection breach. The notification of the Agency referred to in paragraph one of this Article must, in addition to the foregoing, also contain a description of the consequences of the breach of personal data protection and the measures proposed or adopted by the public communications service provider to deal with such breach.

(6) For the purposes of implementing the provisions of this Article, the Agency may issue a general act concerning the circumstances in which public communications service providers must issue notification of the breach of personal data protection, and the form and method of such notification. In so doing, the Agency shall take into account any potential technical implementing measures adopted by the European Commission.

(7) Public communications service providers must maintain an adequate register of breaches of personal data protection. The register of data shall therefore include the facts relating to the breaches, their effects, and the estimated number of compromised individuals, as well as remedial measures taken, enabling the Agency to verify compliance with the provisions of this Article. The register may only contain the data required for this purpose.

Article 228
(Lawful interception of communications)

(1) Operators shall be obliged to facilitate lawful interception of communications at a particular point in the public communications network immediately on receipt of a copy of that part of the order of a competent body stating the point of the public communications network at which lawful interception of communications should be undertaken, and other data relating to the method, extent and duration of such measure.

(2) A copy of the order referred to in the preceding paragraph shall be made by the body that issued the order.

(3) Operators shall be obliged to facilitate lawful interception of communications in the manner, to the extent and for the duration in the transcript of the operative part of the order referred to in paragraph one of this Article.

(4) In exceptional cases, operators shall be obliged to enable lawful interception on the basis of a verbal order where so provided by a law which also defines the conditions and circumstances for the issuing of a verbal order. A written copy of the verbal order shall be supplied to the operator as soon as possible, but not later than within 48 hours of it being issued.

(5) Operators shall ensure a thirty-year indelible registration of each lawful interception of communications, which includes data referred to in paragraphs one and/or four of this Article and data on the implementation of the order (who implemented it and the duration of interception), and shall protect them during this period in accordance with the classification marking of the transcript of the order. The authority implementing supervision of communications under the order referred to in paragraph three of this Article shall store such data in accordance with the regulation governing its operation.

(6) Operators shall be obliged at their own expense to provide adequate equipment in their networks and appropriate interfaces enabling lawful interception of communications in their networks. In the interception of communications in international electronic communications networks in accordance with the Act governing the Slovenian Intelligence and Security Agency, the operator of the network shall provide, at its own cost, adequate equipment and appropriate interfaces enabling lawful interception of international communications in its network, or adequate transmission routes to interfaces in the control centre of the responsible body.

(7) The Minister, in agreement with the minister responsible for internal affairs, the minister responsible for defence and the director of the Slovenian Intelligence and Security Agency, shall prescribe the functionality of equipment and determine appropriate interfaces referred to in the preceding paragraph.

(8) The Agency shall supervise operators' compliance with the obligations referred to in this Article, which shall not interfere with the responsibility of competent authorities to supervise legal interception pursuant to other acts.

Article 229
(Supervision)

The Agency, taking into consideration the restrictions laid down in Article 228 of this Act, shall supervise the implementation of the provisions of this Chapter, except the

provisions of Articles 216, 220, 221 and 225 of this Act, which shall be subject to the supervision of the Information Commissioner.

XIII. THE AGENCY

1. **General provisions**

1.1 *General*

Article 230
(The Agency)

(1) The Electronic Communications Networks and Services Agency of the Republic of Slovenia (hereinafter: the Agency) shall be a legal entity under public law.

(2) The Agency shall be independent in the performance of its tasks.

(3) The founder's rights and responsibilities shall be exercised by the Government of the Republic of Slovenia on behalf of the Republic of Slovenia.

Article 231
(Operation of the Agency)

(1) The Agency shall undertake all tasks laid down by this Act and other legislation in the areas of its operation, and by implementing regulations adopted on the basis thereof. In this way it shall pursue the development goals in its areas of operation deriving from strategic documents of the Republic of Slovenia.

(2) The Agency shall undertake its tasks and responsibilities in an independent, transparent and timely manner within the statutory time limits.

(3) The Agency may not request or receive instructions from other state bodies when performing the tasks of ensuring competition referred to in Chapter IX of this Act, settling disputes referred to in paragraph one of Article 282 of this Act, shaping the market and competition in the procedures for the allocation of rights of use of radio frequencies, performing tasks contributing to the protection of the rights of end-users, performing the tasks referred to in Article 268 of this Act, performing the tasks referred to in Articles 171 and Article 172 of this Act, and ensuring the portability of the numbers referred to in Articles 195 and 196 of this Act. The foregoing shall be without prejudice to the possibility of consultation with the authority responsible for competition protection, the authority responsible for consumer protection and to cooperation with other regulatory authorities, the European Commission and BEREC and RSPG in accordance with this Act.

(4) The organisation and operation of the Agency shall be regulated by its articles of association.

Article 232
(Acts of the Agency)

(1) The Agency shall issue general acts on all matters within its competence.

(2) The Agency may, by means of a general act, regulate in detail the issues arising from the implementation of specific provisions of acts in areas within its competence.

(3) The Agency may issue a general act for the enforcement of directly applicable rules of the European Union in the field of electronic communications where those rules directly lay down the tasks of national regulatory authorities.

(4) The Agency shall, within its regulatory competences, issue non-binding recommendations for specific actions to addressees.

(5) The Agency shall decide on particular matters in the areas within its competence by a decision or a resolution.

(6) The articles of association and general acts of the Agency for the exercise of public powers shall be published in the Official Gazette of the Republic of Slovenia, and recommendations shall be published on the Agency's website.

Article 233
(Bodies of the Agency)

The Agency's bodies shall be the Council and the Director.

1.2 *The Agency Council*

Article 234
(Structure and appointment of Agency Council members)

(1) The Agency Council shall be composed of five members.

(2) Agency Council members shall be appointed by the Government by decision on the basis of a public call carried out by the Ministry.

(3) The president of the Agency Council shall be elected by the Council's members from among their own number by a majority vote in a secret ballot.

(4) In proposing candidates for membership of the Agency Council, the Government shall apply the criteria of the candidate's expertise and qualifications.

Article 235
(Term of office and conditions for Agency Council members)

(1) Members of the Agency Council shall be appointed for a period of five years, and may be reappointed.

(2) A person who is a citizen of a Member State of the European Union and meets the following conditions may be appointed a member of the Agency Council:
1. has registered permanent residence in the Republic of Slovenia;
2. has the capacity to contract;
3. has at least education in the relevant field, obtained under second-cycle study programmes, or an education that corresponds to the level of education obtained under second-cycle study programmes and ranked at level 8 in accordance with the Act governing the Slovenian Qualifications Framework;

4. has at least five years' work experience in a post requiring the education referred to in the preceding point;
5. is an expert in at least one area of operation or activities of the Agency;
6. has not been finally convicted of a premeditated criminal act prosecuted *ex officio* and sentenced to unconditional imprisonment of more than six months;
7. submits the declaration of interests and affiliations referred to in Article 236 of this Act.

Article 236
(Declaration of interests and affiliations of an Agency Council member)

(1) A candidate for membership of the Agency Council shall be required to make a declaration disclosing their interests and affiliations as a sole trader, as a holder of an ownership interest in a company and/or as a member of the administrative and supervisory bodies of companies carrying out activities in the field which the Agency is competent to regulate, or as their suppliers of electronic communications equipment. In doing so, they shall disclose in particular information about their sole trader status, ownership interests in companies and membership in the administrative and supervisory bodies of these companies. The candidate shall also disclose any other circumstances that could interfere with the objective and impartial performance of a Council member's duties.

(2) A member of the Agency Council shall, within 30 days of appointment, submit the declaration referred to in the preceding paragraph to the Agency, which shall publish it on its website.

(3) Whenever there is a change in the interests and affiliations referred to in paragraph one of this Article, a member of the Agency's Council shall be obliged to inform the Agency, which shall publish it in the manner specified in the preceding paragraph, and to immediately inform the Agency's Council in writing and to cease to act in matters in which such interests and affiliations could interfere with the objective and impartial performance of their duties.

(4) If any member of the Agency Council considers that there are interests and affiliations of a member of the Agency Council referred to in paragraph one of this Article which they did not indicate as a candidate for membership of the Agency Council, or of which they did not inform the Agency Council in accordance with the preceding paragraph, or of which they did inform the Agency Council in accordance with the preceding paragraph, but which could interfere with the objective and impartial performance of their duties, the member of the Agency Council shall propose to the Agency Council that it informs the Commission for the Prevention of Corruption thereof. A member of the Agency Council to whom these interests and affiliations relate may not take part in the decision-making process of the Agency Council on this proposal. Before taking a decision, the Agency Council shall obtain the opinion of the member of the Agency Council who is the subject of the procedure.

Article 237
(Incompatibility)

The following persons may not be appointed as Agency Council members:
1. members of official bodies of political parties;
2. officials under the Act regulating the salary system in the public sector;
3. persons who are employees or members of the administrative or supervisory body of a legal entity which performs its activity in the area under the Agency's competence, or who have ownership shares in legal entities performing their activity in the area under

the Agency's competence, or are members of the administrative or supervisory bodies of legal entities which have an ownership interest in such legal entities;

4. persons whose spouse, cohabiting partner and relative up to and including the second degree of kinship is a member of the administrative or supervisory body of a legal entity which performs its activity in the area under the Agency's competence, or has ownership shares in legal entities performing their activity in the area under the Agency's competence, or in legal entities having an ownership share therein.

Article 238
(Competences and responsibilities of the Agency Council)

(1) The Agency Council shall:

1. adopt its Rules of Procedure;
2. adopt the work programme, financial plan and annual report;
3. monitor the implementation of the work programme and financial plan;
4. grant consent to the articles of association adopted by the director of the Agency;
5. propose the dismissal of the director of the Agency;
6. propose that the director of the Agency be suspended from the exercise of their duties;
7. propose the early dismissal of members of the Agency Council.

(2) Agency Council members and/or persons authorised by the Agency Council may inspect books of account as defined in the Slovenian Accounting Standards and the Agency's accounting documents.

(3) The members of the Agency Council shall protect the confidentiality of the Agency's information in accordance with this Act and other acts in the field of its operation, including the business secrets of other legal entities to which they have access in the performance of their duties.

(4) The Director shall, at the request of the Agency Council, provide it with a report on the operation of the Agency and other information necessary for the Agency Council to perform its activities.

(5) The Agency Council may propose to the director improvements in the operation of the Agency, and shall draw attention to any irregularities in the Agency's operation and/or shall inform the competent bodies thereof.

(6) In exercising its powers referred to in paragraph one of this Article, the Agency Council may not interfere with the content and procedures for the adoption of other general and individual acts and recommendations of the Agency, or with the professional tasks related thereto.

Article 239
(Early dismissal of Council members)

(1) A member of the Agency Council shall be dismissed prior to the expiry of their term of office:

1. if the member demands their own dismissal;
2. if they no longer meet the statutory conditions for appointment;
3. if due to permanent loss of the capacity to perform work;
4. in the event of a position of incompatibility referred to in Article 237 of this Act;
5. if they fail to perform their duties for more than half a year.

(2) Members of the Agency Council shall be dismissed prior to the expiry of their term of office by the Government upon a reasoned proposal of the Agency Council.

(3) If the dismissal of a member of the Agency Council is proposed by the Agency Council, the Agency Council shall adopt a reasoned proposal for the early dismissal of the member of the Agency Council in accordance with the procedure laid down in the Agency's articles of association. The member of the Agency whose dismissal is proposed may not take part in the decision on early dismissal. Before taking a decision, the Agency Council shall obtain the opinion of the member of the Agency Council whose dismissal is proposed.

(4) Judicial protection against a dismissal decision shall be guaranteed in an administrative dispute.

Article 240
(Convening of meetings and decisions of the Agency Council)

(1) The Agency Council shall work and decide in meetings convened at least four times a year by the president of the Agency Council on the president's own initiative, at the request of at least two members of the Agency Council, or at the request of the Agency director. Requests from members of the Agency Council and the director must be specifically reasoned.

(2) The Agency Council shall adopt decisions after consultation by voting in a meeting. A decision shall be accepted if supported by a majority of all members of the Agency Council. Minutes shall be kept of Agency Council meetings.

Article 241
(Rights and obligations of Agency Council members)

(1) Agency Council members shall act impartially and with due diligence in performing their duties, and shall protect the Agency's business secrets.

(2) In accordance with the regulation issued by the Government pursuant to the Act governing public agencies, Council members shall be entitled to attendance fees and reimbursement of other costs. Assets, working conditions and information for the Council shall be provided by the Agency.

(3) Council members shall be responsible for damages resulting from any breach of their duties and obligations.

1.3 *Director of the Agency*

Article 242
(Appointment of a director and acting director)

(1) The director of the Agency shall be appointed by the Government on the proposal of the Minister following an open competition.

(2) The open competition shall be published on the Agency's website and on the website of the ministry responsible for administration, and may also be published in the daily press or in the Official Gazette of the Republic of Slovenia. The open competition must be

published not more than 90 and not less than 60 days before the expiry of the term of office of the current director of the Agency.

(3) The open competition, which shall be launched on the proposal of the Minister, shall be conducted by a special competition commission appointed by the Council of Officials.

(4) No appeal shall be permitted against the appointment decision, however, judicial protection in an administrative dispute shall be provided, wherein the competent court shall give priority to the case.

(5) If the director dies, is dismissed or their term of office has expired and a new director has not yet been appointed, the Government shall appoint an acting director without a preliminary open competition until the appointment of a new director, but for no longer than six months. The provisions of Articles 243 and 248 of this Act shall apply to the acting director as regards the conditions of appointment and the grounds for early dismissal.

(6) If the director is suspended pursuant to Article 249 of this Act, an acting director shall be appointed until the suspension ceases to apply.

Article 243
(Term of office and conditions for the appointment of a director)

(1) A person meeting the following conditions may be appointed director:

1. is a citizen of the Republic of Slovenia;
2. has the capacity to contract;
3. has at least education in the relevant field, obtained under second-cycle study programmes, or an education that corresponds to the level of education obtained under second-cycle study programmes and ranked at level 8 in accordance with the Act governing the Slovenian Qualifications Framework;
4. has at least ten years' work experience in a post requiring the education referred to in the preceding indent;
5. is an expert in the areas falling within the competence of the Agency;
6. has international experience and management and organisational skills and experience;
7. has advanced knowledge of the English language;
8. has not been finally convicted of a premeditated criminal offence prosecuted *ex officio* and sentenced to unconditional imprisonment of more than six months, and/or has not been finally convicted of a criminal offence against official duties, public powers and public funds;
9. is not subject to any criminal proceedings for a premeditated criminal offence prosecuted ex officio;
10. meets the requirements referred to in Articles 244 and 245 of this Act;
11. submits the declaration of interests and affiliations referred to in paragraph one of Article 246 of this Act.

(2) The director shall be appointed for a period of five years and may be reappointed following an open competition.

(3) Subject to the provisions of paragraph three of Article 231 of this Act, the Government shall conclude an employment contract with the director, which shall also set out the expected objectives and results of the director.

Article 244

(Performance of other activities and conflicts of interest)

(1) All public employees of the Agency shall be subject to the restrictions regarding the performance of other activities and conflicts of interest as laid down for officials in the Act governing public employees.

(2) The director and their deputies, their spouses or cohabiting partners and direct relatives up to and including the second degree of kinship, may not:

1. themselves as natural persons undertake activities in the areas regulated by the Agency;
2. be members of the supervisory or management boards of legal entities that undertake activities in the areas regulated by the Agency;
3. have ownership interests in legal entities performing an activity in the area under the Agency's competence, or in legal entities holding an ownership interest therein.

Article 245
(Restriction of business activities)

(1) The director and their deputies may not:

1. themselves as natural persons, engage in business activities with natural persons or legal entities carrying out an activity in the field which the Agency is competent to regulate;
2. be a member of the administrative or supervisory body of a legal entity which engages in business activities with natural persons or legal entities carrying out an activity in the field which the Agency is competent to regulate;
3. hold ownership interests in legal entities engaging in business with natural persons or legal entities carrying out an activity in the field which the Agency is competent to regulate, or in legal entities holding an ownership interest therein.

(2) The prohibition of engaging in business activities referred to in the preceding paragraph shall not include business activities aimed at the use of publicly available services provided by natural persons or legal entities carrying out an activity in the area which the Agency is competent to regulate.

Article 246
(Declaration of interests and affiliations of a candidate for director)

(1) A candidate for director shall be required to make a declaration disclosing their interests and affiliations as a sole trader, as a holder of an ownership interest in a company and/or as a member of the administrative and supervisory bodies of companies carrying out activities in the field which the Agency is competent to regulate, or as their suppliers of electronic communications equipment. In doing so, they shall disclose in particular information about their sole trader status, ownership interests in companies and membership in the administrative and supervisory bodies of these companies. The candidate shall also disclose any other circumstances that could interfere with the objective and impartial performance of their duties.

(2) The director shall, within 30 days of appointment, submit the declaration referred to in the preceding paragraph to the Agency, which shall publish it on its website.

(3) Whenever there is a change in the interests and affiliations referred to in paragraph one of this Article, the director shall be obliged to inform the Agency, which shall publish it in the manner specified in the preceding paragraph, and to immediately inform the Agency's Council and the Government in writing and to cease working in matters in which

such interests and affiliations could interfere with the objective and impartial performance of their duties.

(4) If any member of the Agency Council considers that there are interests and affiliations of the director referred to in paragraph one of this Article which they did not indicate as a candidate for director, or of which they did not inform the Agency Council and the Government of in accordance with the preceding paragraph, or of which they did inform the Agency Council and the Government in accordance with the preceding paragraph, but which could interfere with the objective and impartial performance of their duties, the member of the Agency Council shall propose to the Agency Council that it informs the Commission for the Prevention of Corruption thereof. Before taking a decision, the Agency Council shall obtain the opinion of the director. The Commission for the Prevention of Corruption may also be informed by the Government if the Government considers that the director has such interests and affiliations.

Article 247
(Competence and responsibilities of the director of the Agency)

(1) The director of the Agency shall:
1. represent the Agency;
2. manage its business operation and organise its work, and adopt the Agency’s articles of association;
3. conduct procedures and give authorisations for the conducting of procedures in matters within the competence of the Agency;
4. issue specific acts and adopt general acts and recommendations within the Agency's competence;
5. protect the confidentiality of the Agency's information in accordance with this Act and other acts in the field of its operation, including the business secrets of other legal entities to which they have access in the performance of their duties;
6. prepare and submit to the Agency Council for adoption a draft work programme, financial plan and annual report, and cooperate with the Agency Council in accordance with their respective competences;
7. cooperate with advisory councils in the field of the Agency's activities in accordance with their respective competences.

(2) The director may appoint up to two deputies from among the heads of the sectors within the Agency who, in the absence of the director and in the event of ceasing to work referred to in paragraph three of the preceding Article, shall, on the basis of the latter's authorisation, manage and represent the Agency.

(3) The director shall be liable to the Agency for any damage caused by their unconscientious or unlawful conduct under the general rules of liability for damages.

Article 248
(Early dismissal of the director)

(1) The director shall only be dismissed prior to the expiry of their term of office in the following cases:
1. at their own request;
2. if they no longer meet the conditions for appointment referred to in paragraph one of Article 243 of this Act, except the condition referred to in point 9 of paragraph one of Article 243 of this Act;
3. due to permanent loss of capacity to perform work as director.

(2) The director may also be dismissed before the expiry of their term of office if the Court of Audit of the Republic of Slovenia, in accordance with its competences under the Act governing the Court of Auditors, requests their dismissal.

(3) The director shall be dismissed by the Government on its own proposal or on the proposal of the Agency, if the reasons referred to in paragraphs one and two of this Article exist.

(4) The director must be informed of the reasons for early dismissal and must also have the right to express their views on the matter.

(5) The Government shall dismiss the director by means of an administrative decision, wherein it shall cite the reasons for its decision.

(6) No appeal shall be permitted against the decision referred to in the preceding paragraph, but judicial protection in an administrative dispute shall be provided, wherein the competent court shall give priority to the matter.

(7) The Government shall publish information on the dismissal of the director. If this information does not contain a statement of all reasons for the dismissal, the Government shall, at the request of the dismissed director, publish on its website the full decision referred to in paragraph five.

(8) The dismissed director, who, prior to their appointment, had a contract of employment with the Agency, shall be assigned to a vacant post in the Agency corresponding to their qualifications for the period for which they had a contract of employment. If there is no such post, the Government shall, in accordance with the Act governing employment relationships, terminate their contract of employment in accordance with the provisions on ordinary termination.

(9) If the director is dismissed before the expiry of their term of office because they no longer meet the conditions for appointment referred to points 8 or 10 of paragraph one of Article 243, they shall be dismissed on fault-based grounds, and the employment contract shall be terminated on fault-based grounds in accordance with the Act governing employment relationships.

Article 249
(Suspension of the director)

(1) The Government shall, on its own motion or that of the Agency, suspend the director by means of an administrative decision, if:

1. criminal proceedings are initiated against them on the grounds of reasonable suspicion of a criminal offence relating to their work under Articles 257, 257a, 261 or 263 of the Criminal Code of the Republic of Slovenia (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 50/1 – officially consolidated version, 6/16 – corr., 54/15, 38/16, 27/17, 23/20, 91/20, 95/21, 186/21 and 105/22 – ZZNŠPP), or
2. a final indictment is lodged for the commission of a premeditated criminal act which is prosecuted *ex officio* and for which the principal sentence is imprisonment of at least six months.

(2) In the cases referred to in paragraph one of this Article, the director shall be temporarily stripped of their authorisations and offered an employment contract in another post in the Agency. The director shall only be temporarily stripped of the director's authorisations and at the same time banned from working in the Agency where there is no

other way to ensure the lawfulness of the Agency's operation and/or impartial decision-making.

(3) The suspension of the director as referred to in paragraph one of this Article shall last until:
1. the Government's final decision on their dismissal;
2. the expiry of their term of office, or
3. the final conclusion of criminal proceedings.

(4) The director must be informed of the reasons for suspension and must have the right to express their views on the matter.

(5) The Government shall decide on suspension of the director by means of an administrative decision against which judicial protection shall be provided in an administrative dispute.

(6) If the director is temporarily banned entirely from working in the Agency, during such period they shall be entitled to 50% of the basic salary that they would have received if they performed the tasks of the Agency director. If the director is offered and accepts an employment contract in another post in the Agency, they shall be entitled to the salary for that post during this period. If they reject such offer, they shall not be entitled to the right referred to in this paragraph.

(7) If the procedure initiated due to a criminal act referred to in paragraph one of this Article reaches its final conclusion before a criminal court with a ruling that there are no grounds for dismissal of the director under this Act, the consequences of the measure referred to in paragraph one of this Article shall be eliminated on the date of the final court decision.

1.4 *Operation of the Agency*

Article 250
(Number of employees)

In its work programme, the Agency shall specify an appropriate number of employees with regard to its working needs to exercise its competences.

Article 251
(Salaries of employees)

The regulations governing the salary system in the public sector shall apply to the salaries of Agency employees.

Article 252
(Financing of the Agency)

The Agency shall be financed exclusively from revenues from payments provided by this Act and other acts in the areas of its operation.

Article 253
(Procedure for adopting the work programme and financial plan)

(1) The ministries responsible for the Agency's specific fields of activities may send to the Agency, by 31 May of the current year, strategic orientations for the preparation of the work programme and financial plan for the following calendar year.

(2) The Agency shall submit the draft work programme and financial plan for the following calendar year for public consultation in accordance with Article 269 of this Act by 31 July of the current year at the latest.

(3) The director shall submit to the Agency Council for adoption, no later than by 30 September of the current year, work programme and financial plan proposals for the following calendar year.

(4) By 31 October of the current year, the Agency Council shall submit to the Government the adopted work programme for information and the financial plan for approval.

Article 254
(Supervision of the work of the Agency)

(1) The Agency's statutes shall be ratified by the Government.

(2) The Government shall approve the Agency's financial plan.

(3) The Agency shall be obliged to keep separate accounts for the areas it regulates in accordance with the Act governing accountancy and regulations issued pursuant thereto. The accounting statements and business reports of the Agency shall be reviewed by an authorised auditor. The auditor must also give their approval for the allocation of overheads to each separate area.

(4) Every year, the Agency shall prepare an annual report which shall be approved by the Government, and shall subsequently inform the National Assembly thereof. The annual report shall comprise a report on the Agency's work and business report.

(5) Supervision of the work of the Agency shall be carried out by the ministries responsible for individual working fields in which the Agency operates. Such supervision shall not include any scope for interfering with the contents of general or specific legal acts issued by the Agency in relation to the implementation of its responsibilities pursuant to this or other acts in the areas of its operation.

(6) Supervision of the lawfulness, designated use, and efficient and effective use of the Agency's resources shall be carried out by the Court of Auditors. The Court of Auditors shall publish a report on the audits carried out on its website.

(7) The ministry responsible for administration shall undertake supervision of the implementation of regulations regarding the administrative procedure.

Article 255
(Procedure before the Agency)

(1) The Agency shall conduct procedures and issue decisions and other individual acts under the Act governing general administrative procedure unless otherwise provided by this Act. Where this Act provides that decisions or other individual acts are issued after a public tender, the Agency shall carry out a public tender under this Act prior to initiating an administrative procedure.

(2) The director may authorise a person within the Agency who meets the conditions for decision-making in general administrative procedures to decide on individual cases.

(3) Decisions or other individual acts of the Agency issued in an administrative procedure shall be final, unless otherwise stipulated by this Act or another act governing its area of operation.

(4) Only those extraordinary legal remedies within the competence of the Agency under the Act governing general administrative procedure shall be allowed against a decision or other individual act of the Agency referred to in the preceding paragraph.

(5) The Agency shall itself undertake administrative implementation of its enforceable decisions, and in so doing may impose appropriate penalties and use enforcement measures prescribed by the Act governing general administrative procedure. Administrative enforcement of monetary obligations shall be undertaken by the tax authority in accordance with the procedure laid down for the purposes of enforcement of tax liabilities.

Article 256
(Judicial protection)

(1) Judicial protection in accordance with the Act governing administrative disputes shall be provided against a final decision or other individual act of the Agency.

(2) Cases in an administrative dispute against acts issued by the Agency pursuant to this Act shall be filed at the Administrative Court of the Republic of Slovenia in Ljubljana. The Administrative Court based in Ljubljana shall rule on the dispute.

(3) Proceedings relating to actions against the legal acts issued pursuant to the provisions of Chapter IX of this Act shall be given priority.

Article 257
(Collecting data relating to proceedings before the Administrative Court)

(1) The Administrative Court shall collect data on the number and general subject of cases filed in administrative disputes, the duration of court proceedings from the filing of a case until the final court decision, and on the number of interim decrees issued by the court in relation to electronic communications.

(2) The Administrative Court shall forward the data referred to in the preceding paragraph for the current year to the ministry responsible for justice no later than by 31 January of the following year.

(3) The ministry responsible for justice shall forward the data received to the European Commission and BEREC at their justified request.

2. **Objectives of the Agency in the area of electronic communications**

Article 258
(General objectives and principles)

(1) In undertaking its duties, the Agency shall take all necessary measures to achieve the objectives referred to in Articles 259 to 261 of this Act, wherein the measures must be proportionate to the objectives pursued.

(2) The measures adopted by the Agency must be technologically neutral as far as possible, unless otherwise provided by this Act and the implementing regulations governing the radio spectrum adopted on its basis.

(3) The Agency shall, within its competence, contribute to fulfilling guidelines aimed at the promotion of cultural and linguistic diversity and media pluralism.

(4) The Agency and other state authorities shall, where appropriate, assist the European Commission in establishing benchmarks and reporting on the performance of EU Member States in achieving the objectives set out in Articles 259 to 261 of this Act.

Article 259
(Promotion of competition and connectivity and access to very high capacity networks)

(1) The Agency shall promote effective competition in the provision of electronic communications networks and associated facilities, including effective competition in infrastructure, and in the provision of electronic communications services and associated services.

The Agency and the Ministry shall promote connectivity and access to, and take-up of, very high capacity networks, including fixed, mobile and wireless networks, by all EU citizens and businesses of the Union.

Article 260
(Promoting development of the internal market)

The Agency shall contribute to the development of the internal market by *inter alia*:

1. removing remaining obstacles to, and facilitating convergent conditions for, investment in, and the provision of, electronic communications networks, electronic communications services, associated facilities and associated services, throughout the Union;
2. favouring the effective, efficient and coordinated use of the radio spectrum, open innovation, the establishment and development of trans-European networks, the provision, availability and interoperability of pan-European services, and end-to-end connectivity;
3. contributing to the development of common rules and predictable regulatory approaches.

Article 261
(Supporting the interests of citizens)

The Agency shall support the interests of citizens in particular by *inter alia*:

1. promoting connectivity and the widespread availability and use of very high capacity networks, including fixed, mobile and wireless networks, and electronic communications services;
2. maximising the benefits in choice, price and quality through effective competition;
3. ensuring high and uniform protection of end-users through sector-specific rules;
4. ensuring choice and equitable access for end-users with disabilities;
5. ensuring a high level of consumer protection when dealing with operators, in particular by ensuring a simple dispute resolution procedure, addressing the needs of specific

social groups, in particular users with disabilities, elderly users and users with special social needs;
6. ensuring that the integrity of public communications networks and the security of those networks and public communications services are maintained;
7. promoting the preservation of the open and neutral character of the internet.

Article 262
(Regulatory principles)

In pursuing the objectives set out in Articles 258 to 261 of this Act, the Agency shall apply impartial, objective, transparent, non-discriminatory and proportionate regulatory principles, such as:
1. promoting regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods and through cooperation with other national regulatory bodies and other competent bodies, with BEREC, with the RSPG and with the Commission;
2. ensuring that, in similar circumstances, there is no discrimination in the treatment of natural persons and legal entities that provide electronic communications networks and services;
3. applying regulations in a technologically neutral fashion, to the extent that this is consistent with the achievement of the objectives set out in Articles 258 to 261 of this Act;
4. promoting efficient investment and innovation in new and enhanced infrastructures, including by ensuring that any access obligation takes appropriate account of the risk incurred by the investing undertakings and by permitting various cooperative arrangements between investors and parties seeking access to diversify the risk of investment, while ensuring that competition in the market and the principle of non-discrimination are preserved;
5. taking due account of the variety of conditions relating to infrastructure and consumers in the various geographic areas within a Member State, including local infrastructure managed by natural persons on a not-for-profit basis;
6. imposing *ex ante* regulatory obligations only to the extent necessary to secure effective and sustainable competition and relax or lift such obligations as soon as that condition is fulfilled.

Article 263
(Independent operation)

The Agency must operate independently of natural persons and legal entities providing electronic communications networks and/or services.

3. **Competences of the Agency in the area of electronic communications**

Article 264
(Official records)

(1) The Agency shall keep official records of:
1. operators;
2. holders of decisions on the assignment of radio frequencies;
3. holders of decisions on the assignment of numbering resources;
4. holders of amateur-radio licences.

(2) The Agency shall keep the official records referred to in the preceding paragraph as an interconnected computerised database.

(3) The Agency shall keep the following data in the official records of operators:
1. name, address and tax number for natural persons;
2. company name, registered office and registration and identification numbers for legal entities;
3. data on notification of public communications networks and/or public communications services;
4. data on the date of commencement, alteration or cessation of the provision of public communications networks and/or services;
5. data on decisions designating operators with significant market power;
6. data on the settlement of obligations of operators arising from this Act;
7. data on penalties for breaches of the provisions of this Act.

(4) The Agency shall keep the following data in the official records of holders of decisions on the assignment of radio frequencies:
1. name, address and tax number for natural persons;
2. company name, registered office and registration and identification numbers for legal entities;
3. data on the decision on the assignment of radio frequencies, on the electronic communications network and/or electronic communications service for which the assigned radio frequency is used, on the date of expiry of such decision, and other data from such decision;
4. data on the settlement of obligations of holders of decisions on the assignment of radio frequencies arising from this Act;
5. data on penalties imposed on holders of decisions on the assignment of radio frequencies for breaches of the provisions of this Act.

(5) The Agency shall keep the following data in the official records of holders of decisions on the assignment of numbering resources:
1. name, address and tax number for natural persons;
2. company name, registered office and registration and identification numbers for legal entities;
3. data on the decision on the assignment of numbering resources, on the electronic communications network and/or electronic communications service for which the assigned numbering resources are used, on the date of expiry of such decision, and other data from such decision;
4. data on the settlement of obligations of holders of decisions on the assignment of numbering resources arising from this Act;
5. data on penalties imposed on holders of decisions on the assignment of numbering resources for breaches of the provisions of this Act.

(6) The Agency shall keep the following data in the official records of amateur radio licence holders:
1. name, address and tax number for natural persons;
2. company name, registered office and registration and identification numbers for legal entities;
3. data on the assigned call-sign.

(7) The Agency may also obtain data listed in this Article from official records of other state bodies, and through direct computer or electronic links.

(8) The Agency shall retain the data referred to in paragraph three of this Article for as long as the operator provides a public communications network or service pursuant to

this Act, after which it shall archive them permanently. The Agency shall retain the data referred to in paragraphs four and five of this Article for as long as the natural person or legal entity has the right to use the radio frequencies and/or numbers, after which it shall archive them permanently.

Article 265
(Obligation to collect and provide data and information to the Agency)

(1) All natural persons and legal entities providing electronic communications networks and/or services, associated facilities or associated services, shall, upon written request, make available to the Agency all data and information in their possession, including documents and financial data, which the Agency requires for the exercise of its powers under this Act, *inter alia*, for:

1. systematic or case-by-case verification of compliance with requirements relating to the efficient use of radio frequencies or numbering resources, including contributions to fund universal service and the payment of fees for the use of radio frequencies, for the use of numbering resources, and/or payments for the efficient use of a limited natural resource;
2. case-by-case verification of compliance with the provisions of this Act or individual acts of the Agency;
3. security assessment of the services and networks of operators, including documented security policies;
4. dispute resolution under the provisions of this Act;
5. carrying out procedures related to applications for the right to use limited resources pursuant to this Act;
6. publication of comparative reviews of quality and prices of services for the benefit of consumers;
7. clearly defined statistical purposes;
8. carrying out analyses of relevant markets and exercise of other powers in the area of ensuring competition;
9. the exercise of its competence in the field of construction, including enquiries into the announcement of network deployment referred to in Articles 18 and 19 of this Act,
10. safeguarding efficient use of the radio spectrum and numbering resources, and ensuring their efficient management;
11. evaluating future network or service development that could have an impact on wholesale services made available to competitors, on territorial coverage, on connectivity available to end-users or on the designation of areas pursuant to paragraph four of Article 18 of this Act;
12. responding to reasoned requests for information by BEREC.

(2) As regards the rights of use for the radio spectrum, the information referred to in the preceding paragraph shall refer in particular to the effective and efficient use of the radio spectrum as well as to compliance with any coverage and quality of service obligations attached to the rights of use for the radio spectrum and their verification.

(3) In exercising its powers referred to in paragraph one of this Article, the Agency shall in particular be entitled to require natural persons and legal entities referred to in the preceding paragraph to also submit information and data concerning future network or service developments that could have an impact on the wholesale services that they make available to competitors, as well as information on electronic communications networks and associated facilities, which is disaggregated at local level and sufficiently detailed to enable the performance of the tasks pursuant to Articles 18 and 19 of this Act. The Agency may also require operators with significant market power in wholesale markets to submit accounting data on retail markets associated with these wholesale markets.

(4) The Agency may request other regulatory bodies or other competent bodies to submit the data and information required for the exercise of its powers.

(5) The data and information requested must be proportionate to the purpose for which they will be used. The Agency shall be obliged to state in the request the intended use of the data and information requested, and to handle the information in accordance with paragraph four of Article 266 of this Act.

(6) Persons referred to in paragraph one of this Article shall be obliged to supply the data and information to the Agency free of charge and to the extent and without delay, and/or within the time limit, stipulated in the request. Late reporting of data and information and reporting of false or incomplete data or information contrary to the Agency's request shall be considered a breach of the obligation to supply the requested data and information.

(7) The provisions of this Article shall also apply to other undertakings operating in the electronic communications sector or related sectors, if the Agency, on the basis of the data and information collected pursuant to paragraph one of this Article, is not able to perform its tasks satisfactorily in accordance with this Act and EU regulations.

(8) The Agency may not request data and information which has already been requested by BEREC from the persons referred to in paragraph one of this Article pursuant to Article 40 of Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ L 321, 17.12.2018, p. 1), and made available to the Agency.

Article 266
(Transmission and handling of data)

(1) The Agency shall be obliged to send to the European Commission on its reasoned request data and information referred to in the preceding paragraph which the European Commission needs to perform its tasks and which is proportionate to the performance of those tasks.

(2) Where the Agency has previously obtained the requested data and information from a person referred to in paragraphs one and/or seven of the preceding Article, or an authority referred to in paragraph four of the preceding Article, it shall, before handing over the data and information, inform that person or authority and explain that the European Commission may also transmit the data and information to other regulatory authorities. If that person or body objects on reasonable grounds to the transmission of that data and information to other regulatory authorities, the Agency shall inform the European Commission thereof.

(3) The Agency may make data and information obtained from the persons referred to in paragraphs one and/or seven of the preceding Article or the authorities referred to in paragraph four of the preceding Article available to other regulatory authorities or other competent authorities, BEREC and other competent international organisations upon their reasoned request, provided that they are necessary for the performance of their tasks and are proportionate to the performance of those tasks. Other regulatory authorities and other competent authorities shall ensure that the degree of their confidentiality is preserved.

(4) When transmitting and using confidential data and information, including data and information collected in the performance of tasks pursuant to Articles 18 and 19 of this

Act, the Agency shall ensure that the degree of their confidentiality is preserved. Confidential data and information obtained by the Agency from another regulatory authority may be used only for the purpose for which it was requested.

(5) The Agency shall publish on its website the data and information it collects which contribute to the openness and competitiveness of the market, in accordance with the Act governing access to public information, the Act governing professional secrecy and the Act governing the protection of personal data, and in accordance with EU rules on professional secrecy and the protection of personal data.

(6) The Agency shall, by means of a general act, specify the manner of implementation of the preceding and this Article. In particular, it shall regulate the manner in which the data and information referred to in the preceding paragraph are collected, the protection of business secrets and the manner in which the publications referred to in the preceding paragraph may be accessed.

Article 267
(Use of standards and specifications)

(1) For the provision of services, technical interfaces and network functions, and where strictly necessary to ensure the interoperability of services, end-to-end connectivity, the ease of switching providers, the portability of numbering resources and better choice for users, the Agency and other competent national authorities shall promote the use of standards and specifications from the list of optional standards and specifications drawn up by the European Commission and published in the Official Journal of the EU.

(2) Until the publication of standards and specifications in accordance with the preceding paragraph, the Agency and other competent national authorities shall encourage the use of standards and specifications adopted by European standards organisations such as the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC) and the European Telecommunications Standards Institute (ETSI).

(3) If standards and specifications referred to in the preceding paragraph do not exist, the Agency and other competent national authorities shall encourage the introduction of international standards or recommendations adopted by the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the International Organization for Standardization (ISO) or the International Electrotechnical Commission (IEC).

(4) No standard or specification referred to in this Article shall prevent access which may, where practicable, be required under this Act.

Article 268
(Internet neutrality)

(1) The Agency shall encourage the preservation of the open and neutral nature of the internet and promote access to and dissemination of information or the use of end-users' own selections of applications and services.

(2) Network operators and internet service providers shall endeavour as far as possible to preserve the open and neutral nature of the internet by not restricting, delaying or

slowing down internet traffic at the level of individual services or applications, treating them unequally or by implementing measures for their degradation, except in the following cases:
1. emergency measures in situations of threat in accordance with Article 124 of this Act,
2. emergency measures to restrict unsolicited communications in accordance with Article 226 of this Act,
3. a court decision.

(3) The measures referred to in points 1 and 2 of the preceding paragraph shall be proportionate, non-discriminatory and of limited duration and of only the necessary scope.

4. Public nature of work in the area of electronic communications

Article 269
(Public influence)

(1) The Agency and other public authorities shall, when formulating policy in the electronic communications market, seek and take due account of the views of members of the public with a specific interest before adopting measures which will have a significant impact on that market and when adopting regulations and strategic documents.

(2) Before adopting the acts and regulations and the strategic documents referred to in the preceding paragraph, the Agency and other public authorities shall publish their proposals and seek opinions within a published period of time, which shall not be less than 30 days.

(3) After the expiry of the time limit referred to in paragraph two of this Article and before the adoption of the act, regulation or strategic document referred to in paragraph one of this Article, the Agency or other public authority shall publish on its website the opinions and comments received and shall indicate in the publication the manner in which they have been taken into account, or the reasons for which they have not been taken into account. In so doing, confidential information and data shall not be published.

(4) The national authorities shall inform the Agency of their public consultations referred to in paragraph two of this Article. The Agency shall publish on its website a link to the public consultation of these authorities.

(5) All information and documents referred to in this Article shall be published on websites that are accessible to end-users with disabilities in accordance with the Act regulating the accessibility of websites and mobile applications.

Article 270
(Public nature of the Agency’s work)

(1) The operation of the Agency shall be public.

(2) The Agency's work programme, financial plan and annual report and the annual report on the state of the electronic communications market shall be published on the Agency's website.

(3) In its articles of association the Agency shall be obliged, for the purposes of implementing the provisions of paragraph one of this Article, to define in detail:
1. the rules for collecting opinions pursuant to the preceding Article of this Act, in which it shall define at least the manner and place of publication of the acts referred to in

paragraph one of the preceding Article of this Act, and the results of consultations, as well as the form of receiving the opinions of members of the public with a specific interest;
2. the manner of access to data and information which the Agency is obliged to publish, and other public data and information;
3. the form of cooperation with representatives of consumer organisations and organisations of persons with disabilities, and organisations of other users of public communications services.

(4) The Agency shall provide information of a public nature in accordance with the Act governing access to public information.

(5) Notwithstanding the provisions of the preceding paragraph, the data exchanged between the parties in procedures related to the provision of public information pursuant to Article 285 of this Act shall be exempt from access, unless the parties involved explicitly consent to the disclosure of such data.

Article 271
(Publication of data and information)

(1) The Agency shall publish on its website data and information on:
1. contracts concluded on interconnections of operators with significant market power;
2. reference offers of those network operators obliged to formulate and publish them;
3. calculations of compensation and costs for universal service provision;
4. decisions on the right to use radio frequencies and numbering resources;
5. amateur radio licences issued;
6. intended and implemented transfer of rights of use of radio frequencies and numbering resources;
7. public calls for the opinions of interested parties pursuant to this Act;
8. public tenders managed by the Agency pursuant to this Act;
9. decisions relating to disputes between natural persons and legal entities providing electronic communications networks and/or services;
10. decisions relating to disputes between natural persons and legal entities providing electronic communications networks and/or services, and end-users;
11. completed supervision procedures;
12. strategies adopted pursuant to this Act.

(2) On its website, the Agency shall raise user awareness of the existence and significance of the emergency call numbers and other telephone numbers with added social value beginning with 116.

(3) The Agency shall publish on its website a link to the information on the conditions and procedures for the issuance of authorisations necessary for the deployment of electronic communications networks, published in the information system for the support of business entities operated by the ministry responsible for the provision of electronic public administration services, as well as to the records referred to in paragraph one of Article 15 of this Act.

(4) Notwithstanding the manner of publication referred to in paragraph one of this Article, the Agency shall also be obliged to ensure publication in another manner where so provided by another act.

(5) When publishing data and information, the Agency shall take due account of the prohibition on disclosure of business secrets and personal data.

5. **Cooperation of the Agency with other bodies in the area of electronic communications**

5.1 *Role of the European Commission and BEREC*

Article 272
(Obligation to respect the recommendations of the European Commission)

In performing its duties, the Agency shall be obliged to give due consideration to recommendations of the European Commission issued to harmonise application of the provisions of the directives referred to in paragraph two of Article 2 of this Act. If the Agency decides not to follow such recommendations, it shall inform the European Commission of its decision and state the reasons for its position.

Article 273
(Taking into account the opinions and views of BEREC)

In promoting better regulatory harmonisation and greater compliance, and in adopting decisions concerning its national markets, the Agency shall support and to the greatest extent possible take into account the opinions and common positions of BEREC.

5.2 *Cooperation of the Agency with other regulatory authorities, the European Commission and BEREC*

Article 274
(Cooperation and consultation)

(1) For the purpose of harmonised application of the European regulatory framework for electronic communications, the Agency shall cooperate with other regulatory authorities, the European Commission and BEREC. The Agency may, *inter alia*, submit a reasoned request to BEREC to carry out a transnational demand analysis in accordance with paragraph one of Article 66 of Directive 2018/1972/EU.

(2) The Agency shall consult other regulatory authorities, the European Commission and BEREC before adopting a measure which may affect trade exchange between EU Member States and which relates to:

1. the definition of the relevant market; or
2. a market analysis procedure; or
3. the imposition, amendment or withdrawal of certain obligations under the competition chapter.

(3) For this purpose, the Agency shall communicate the reasoned draft measure referred to in the preceding paragraph at the same time as the notification to the other regulatory authorities, to the European Commission and to BEREC, and shall give them the opportunity to submit their comments within one month. The draft measure shall also be accompanied by any commitment decision referred to in paragraph 5 of Article 160 of this Act.

(4) The Agency shall carry out consultations referred to in paragraph two of this Article after having completed the consultation with members of the public with a specific interest pursuant to Article 269 of this Act, and shall also submit to other regulatory

authorities, the European Commission and BEREC the opinions and comments of the public previously obtained, unless otherwise provided in the European Commission's recommendations or guidelines which define the format, the counting of time limits, the content and the detailed information relating to the official notification referred to in the preceding paragraph, and the circumstances in which official notification is not required.

(5) The Agency may, after expiry of the time limit referred to in paragraph three of this Article, adopt the draft measure, wherein it shall be obliged to give maximum possible consideration to the comments received from other regulatory authorities, the European Commission and BEREC.

(6) The Agency may withdraw the draft measure at any time.

(7) The Agency shall communicate all adopted final measures referred to in paragraph two of this Article to the European Commission and BEREC.

Article 275
(Procedure for cooperation and consultation prior to adopting measures related to relevant market determination or market analysis procedure)

(1) If the European Commission within the one-month time limit referred to in paragraph three of the preceding Article notifies that the draft measure as proposed in points one or two of paragraph two of the preceding Article would hinder the operation of the single market, or indicates that it has serious doubts as to its compatibility with applicable EU law, the Agency shall be obliged to suspend the adoption of the proposed measure for a further two months.

(2) If the European Commission, within this time limit, adopts a decision on the basis of which the Agency is obliged to withdraw the draft measure, the Agency shall amend or withdraw the draft measure within six months of the decision of the European Commission being issued. If the draft measure is amended, the Agency shall, in accordance with the procedures referred to in Article 269 of this Act, hold a public consultation and again notify the European Commission of the draft measure, in accordance with the provision referred to in paragraph two of the preceding Article.

Article 276
(Procedure for cooperation and consultation prior to adopting measures related to the imposition, amendment or withdrawal of specific obligations)

(1) If the European Commission within the one-month time limit referred to in paragraph three of Article 274 notifies that the draft measure as proposed in point three of paragraph two of Article 274 would hinder the operation of the single market, or indicates that it has serious doubts as to its compatibility with applicable EU law, the Agency shall be obliged to suspend adoption of the proposed measure for a further three months.

(2) The Agency shall be obliged to closely cooperate with the European Commission and BEREC for a period of three months in order to define the most appropriate and effective measures in view of the objectives pursued in the internal electronic communications market.

(3) In the period referred to in the preceding paragraph of this Article, the Agency may amend or withdraw the proposed measure, wherein it shall be obliged to respect as far

as possible the European Commission notification and any opinion or advice of BEREC, but it may also retain the proposed measure.

(4) If after the expiry of three months referred to in paragraph two of this Article, the European Commission issues a recommendation that the Agency should amend or withdraw the proposed measure, the Agency shall, on the basis of such recommendation, adopt a final measure within one month and report it to the European Commission and BEREC. The one-month period may be extended if required for the purpose of repeating the public consultation.

(5) Notwithstanding the provision of the preceding paragraph, the Agency may decide not to follow the recommendation of the European Commission and not to amend or withdraw the proposed measure; such decision must be appropriately substantiated.

Article 277
(Notification of urgent and exceptional measures)

(1) If required for the immediate protection of competition or the rights of users, the Agency may, exceptionally, without consultation in accordance with paragraphs two to four of Article 274 and paragraph one of Article 275 of this Act, adopt an interim measure proportionate to the objectives sought. The Agency shall be obliged to send without delay the interim measure, together with all the reasons for its adoption, to other regulatory authorities, the European Commission and BEREC.

(2) If the Agency wishes to render permanent or extend an interim measure referred to in the preceding paragraph, it shall be obliged to take account of paragraphs two to four of Article 274 and paragraph one of Article 275 of this Act.

Article 278
(Peer review forum)

(1) Where the subject of a call for tenders is the award of radio frequencies for which harmonised conditions for their use for wireless broadband networks and services have been established in accordance with Decision 676/2002/EC, the Agency shall, when publishing the draft call for tenders, inform the RSPG and indicate whether or when it will request the convening of a peer review forum.

(2) During the forum referred to in the preceding paragraph, the Agency shall explain how the draft call for tenders:

1. supports the development of the internal market and the cross-border provision of services, maximises consumer benefits and achieves the objectives set out in Articles 258 to 262 of this Act and the objectives set out in Chapter V of this Act, Decision No 676/2002/EC and Decision No 243/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing a multiannual radio spectrum policy programme (OJ L 81, 21.3.2012, p. 7),
2. ensures effective and efficient use of the radio spectrum,
3. ensures stable and predictable investment conditions for existing and potential users of the radio spectrum in the deployment of networks for the provision of electronic communications services based on the radio spectrum.

(3) The Agency may require the RSPG to adopt a report on the fulfilment of the objectives referred to in the preceding paragraph and on the presentation of the views exchanged in the forum.

(4) The Agency may, following the forum, request the RSPG to adopt an opinion on a draft call for tenders.

5.3 *Cooperation between the Agency and other competent national authorities*

Article 279
(General)

(1) Where other national authorities are competent for a specific field for which the Agency is competent under this Act, the Agency and the competent other national authorities shall cooperate and consult with each other.

(2) The authorities referred to in the preceding paragraph shall also cooperate with other regulatory authorities and competent authorities of other EU Member States in order to promote regulatory cooperation in the exercise of their competences.

Article 280
(Cooperation between the Agency and the authority responsible for the protection of competition)

(1) The Agency and the authority responsible for the protection of competition shall be obliged to exchange the data and information they require to exercise their competences. In doing so, they must maintain the degree of their confidentiality and comply with data protection rules.

(2) Data and information referred to in the preceding paragraph must be restricted to what is appropriate and proportionate to the purpose for which they were exchanged.

(3) In analysing relevant markets and determining significant market power under this Act, the Agency shall cooperate with the authority responsible for the protection of competition without prejudice to such authority's exclusive competence to adopt decisions in this area.

Article 281
(Cooperation with the Information Commissioner)

The Information Commissioner may ask the Agency to cooperate in procedures that fall within its competence under this Act.

XIV. DISPUTE RESOLUTION

Article 282
(Competence for dispute resolution)

(1) The Agency shall resolve disputes between subjects in the electronic communications market in the Republic of Slovenia, such as:

1. disputes between natural persons and legal entities providing electronic communications networks or services, and/or between natural persons and legal entities providing electronic communications networks or services and providers of associated facilities, if

the disputes relate to rights and existing obligations provided for by this Act, regulations issued pursuant to it, and general and individual acts (disputes between operators),
2. disputes between natural persons and legal entities providing electronic communications networks and services and end-users, insofar as the disputes relate to rights and obligations provided for by this Act, regulations issued pursuant to it, and rights and obligations under contracts for the provision of electronic communications networks or services (end-user disputes),
3. disputes between multiplex operators and disputes between multiplex operators and content providers.

(2) Disputes between natural persons and legal entities providing electronic communications networks or services and other natural persons and legal entities benefiting from an access or interconnection obligation imposed or agreed in accordance with this Act or a general or individual act of the Agency issued pursuant to this Act, shall be settled as disputes between operators.

(3) The end-user disputes referred to in point 2 of paragraph one of this Article shall also include disputes relating to terminal equipment owned by and under the management control of the operator and necessary for the provision of the services specified in the subscriber contract. The Agency shall not resolve disputes concerning the purchase of terminal equipment and claims of material defects in terminal equipment.

(4) The resolution of disputes referred to in paragraphs one and two of this Article shall not interfere with any court jurisdiction.

Article 283
(Dispute resolution procedure)

(1) The Agency shall resolve disputes in accordance with the provisions of the procedure referred to in Article 285 of this Act.

(2) Where the resolution of a dispute by mediation is not possible because one of the parties is opposed to the mediation of the Agency, or where mediation does not lead to a settlement or agreement between the parties, the Agency shall continue the dispute resolution procedure and resolve the dispute by taking a decision.

(3) Where a party in the dispute resolution proposal puts forward two or more mutually related claims, the Agency may grant the subsequent claim if it finds that the one that was put forward before it is ill-founded.

(4) A party may amend or extend a dispute resolution proposal throughout the mediation procedure referred to in Article 285 of this Act, but may not do so after the conclusion of the oral hearing. The Agency may also allow the amendment or extension after the conclusion of the oral hearing if it considers that it would be beneficial for the settlement of the dispute between the parties.

(5) In the dispute resolution procedure, the Agency shall apply the provisions of the Act governing the general administrative procedure, unless otherwise provided by this Act.

(6) Notwithstanding the provisions of other regulations, in the dispute resolution procedure referred to in point two of paragraph one of the preceding Article, each party shall bear the costs incurred in the procedure.

(7) If any party during a dispute resolution procedure before the Agency withdraws the request for dispute resolution, the dispute resolution procedure before the Agency shall be discontinued.

(8) If any party during the dispute resolution procedure before the Agency initiates proceedings before a court on the same case, it shall immediately inform the Agency, which shall suspend the dispute resolution procedure pending the decision of the court. If the court finds that it lacks jurisdiction and dismisses the party's action, the proceedings before the Agency shall resume when the decision of the court declaring that it lacks jurisdiction becomes final. If the court decides on the party's claim, the Agency shall dismiss the party's claim when the judgment of the court deciding on the party's claim becomes final.

(9) If the party that requested the initiation of the procedure fails to appear at the oral hearing although duly summoned, and fails to reply to the received record of the oral hearing within the time limit set, the request shall be deemed to have been withdrawn. The Agency shall warn the party filing a request of the possible consequences if it fails to reply to the submitted record within the time limit set.

(10) The Agency shall issue a decision as soon as possible but not later than within four months of the initiation of the dispute resolution procedure.

(11) The Agency shall be obliged to decide pursuant to the law, implementing regulations and general acts, and in accordance with the objectives that it pursues in the market under Articles 258, 259, 260 and 261 of this Act, particularly with regard to ensuring effective competition and protecting the interests of users. In dispute resolution procedures, parties shall be obliged to cooperate fully with the Agency. Natural persons and legal entities providing electronic communications networks and/or services shall, in accordance with point 4 of paragraph one of Article 265 of this Act, be obliged to make available to the Agency on its written request all the necessary information available to them.

(12) The Agency shall be obliged to publicly disclose decisions relating to the disputes referred to in points one and three of paragraph one and in paragraph two of Article 286 of this Act, and to the disputes referred to in paragraph one of Article 286 of this Act, in a form taking into account the prohibition on publishing business secrets of parties, unless the parties propose publication of their business secrets. The Agency shall also publish on its website information on the disputes it is handling as referred to in point two of paragraph one of the preceding Article of this Act, wherein it may not publish personal data or business secrets.

Article 284
(Cross-border dispute resolution)

(1) In a dispute between entities in the electronic communications market arising in different EU Member States, either party may submit the dispute to the Agency.

(2) The provisions of Articles 282 and 283 of this Act shall apply, *mutatis mutandis*, to the dispute resolution procedure under this Article.

(3) Where the disputes referred to in point two of paragraph one of Article 282 of this Act involve a party from another EU Member State, the Agency shall cooperate with the national regulatory authority or other competent authority of that Member State in the resolution of the dispute.

(4) Where the dispute referred to in paragraph one of this Article concerns trade between Member States, the Agency shall officially notify BEREC of the dispute.

(5) Before taking measures to resolve the dispute, the Agency shall await the opinion of BEREC, which shall be taken into account as far as possible. The Agency shall issue a decision within one month of receipt of BEREC's opinion.

(6) Notwithstanding the provision of the preceding paragraph, the Agency may, in exceptional circumstances where it is necessary to take immediate action to safeguard competition or to protect the interests of end-users, adopt interim measures at the request of a party or *ex officio*.

(7) The provisions of this Article shall not apply to disputes related to the harmonisation of the radio spectrum referred to in Article 33 of this Act.

Article 285
(Mediation)

(1) Within eight days of receipt of a proposal to resolve a dispute by one of the disputing parties, or *ex officio* in the case of Article 130 of this Act, the Agency shall inform the disputing parties in writing of the initiation of the mediation procedure and of the conditions for resolving the dispute by a decision of the Agency referred to in paragraph two of Article 283 of this Act, if no agreement is reached.

(2) The role of the Agency in the mediation procedure shall be that of an intermediary required to conduct the procedure in such a manner as to take account of the principles of impartiality, equality, legality, fairness and confidentiality, as well as of the objectives that it pursues in accordance with Articles 258, 259, 260 and 261 of this Act.

(3) If the Agency submits, to an end user that is the applicant in a request for dispute resolution referred to in point two of paragraph one of Article 282 of this Act, a proposal for agreed settlement drawn up by a natural person or legal entity providing electronic communications networks and/or services, and by which the claim of the end user is fully approved, and the applicant does not respond to it within the set time limit, the applicant shall be deemed to agree with the proposed solution and to have withdrawn its claim. In the submitted proposal for agreed settlement, the Agency shall warn the applicant lodging the request for dispute resolution of the possible consequences if it fails to reply within the time limit set in the submitted proposal.

(4) All those involved in any way in the mediation procedure shall be obliged to respect the confidential nature of the mediation procedure.

(5) The Agency may define the rules for mediation in greater detail in a general act.

Article 286
(Resolution of disputes over the reduction of costs of electronic communications networks)

(1) In order to promote more efficient construction and deployment of electronic communications networks and the sharing of existing physical infrastructure, the Agency shall, in the cases provided for in paragraph six of Article 11, paragraph two of Article 12, paragraph six of Article 16, paragraph five of Article 137 and paragraph seven of Article 139

of this Act (disputes over the reduction of costs of electronic communications networks), resolve under the provisions of this Article:

1. disputes between network operators,
2. disputes between network operators and other infrastructure operators,
3. disputes between network operators and investors in public communications networks and/or investors in other types of public service infrastructure,
4. disputes between network operators and holders of the right to use a distribution point and in-building physical infrastructure; and
5. disputes between network operators and owners and/or operators of the physical infrastructure referred to in paragraph two of Article 76 of this Act.

(2) The resolution of disputes referred to in the preceding paragraph may not interfere with any jurisdiction of the courts.

(3) The Agency shall decide on the dispute by way of a decision, by application of paragraphs three, four, five, seven, eight and nine of Article 283 of this Act.

(4) In resolving the disputes referred to in points two and three of paragraph one of this Article, the Agency may consult the regulatory authorities in the field of operation of other infrastructure operators.

(5) In the event of initiation of a dispute referred to in paragraph 2 of Article 12 of this Act, the Agency shall, on the proposal of an interested co-investor, issue an interim decision suspending the construction works until the decision is issued, but for a maximum period of two months. The Agency may make the interim decision conditional upon the interested co-investor providing insurance against damage which the investor may suffer if the joint construction does not take place.

(6) The Agency shall issue a decision as soon as possible, but at the latest within four months of the initiation of the dispute resolution procedure in the case of a dispute pursuant to paragraph two of Article 76 of this Act and a dispute pursuant to paragraph seven of Article 139 of this Act concerning access to existing physical infrastructure, and within two months of the initiation of the dispute resolution procedure in the cases specified in paragraph six of Article 11, paragraph two of Article 12, paragraph six of Article 16 and paragraph five of Article 137 of this Act.

(7) The Agency may use the procedure referred to in the preceding Article in the dispute resolution procedure, provided that the decision shall in any case be issued within the time limits referred to in the preceding paragraph.

(8) In the dispute settlement procedure, the parties shall cooperate consistently with the Agency and shall make available to the Agency, at the latter's written request, all necessary information in their possession.

XV. SUPERVISION

Article 287
(Power of supervision)

(1) The Agency shall supervise the implementation of the provisions of this Act and the regulations and general acts issued pursuant to this Act, except in cases falling within the competence of the Information Commissioner pursuant to Article 229 of this Act or of the authority responsible for information security pursuant to Article 128 of this Act. The

Agency shall also supervise the implementation of all individual acts and measures adopted pursuant to this Act and regulations and general acts issued on its basis. The Authority responsible for information security shall supervise the implementation of individual acts and measures adopted pursuant to paragraph three of Article 120 and paragraph four of Article 121 of this Act.

(2) Notwithstanding the preceding paragraph, the Agency shall not supervise the provisions of Chapter IV of this Act, except paragraphs three, five and nine of Article 27 and paragraph two of Article 29.

(3) The Agency shall also supervise the implementation of the provisions of EU regulations in the area of electronic communications that apply directly in the legal system of the Republic of Slovenia, and which also define the supervision of their implementation by national regulatory authorities in the area of electronic communications, as well as penalties at the Member State level.

Article 288
(Cooperation between supervisory authorities)

The Agency, the Information Commissioner and the authority responsible for information security shall be obliged to inform one another of supervisory measures taken pursuant to this Act, to provide one another with the information necessary for the exercise of supervision, and to cooperate on a professional basis.

Article 289
(Supervision procedure)

(1) The provisions of the Act governing inspection supervision shall apply to the supervisory procedure under this Act, unless otherwise provided by this Act.

(2) If supervision is undertaken by the Information Commissioner, the provisions of the regulations governing the protection of personal data shall also apply to the supervision procedure.

(3) If the supervision is carried out by the authority responsible for information security, the provisions of paragraphs one and four of Article 31 of the Information Security Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 30/18 and 95/21), as well as the provisions of Article 290 of this Act applicable to the Agency, shall apply *mutatis mutandis* in the supervision procedure.

Article 290
(Supervision procedure for natural persons and legal entities providing electronic communications networks and/or services)

(1) If during the supervision of natural persons and legal entities providing electronic communications networks and/or services, the Agency finds irregularities in the implementation of the provisions of this Act and the regulations, general acts and individual acts adopted pursuant thereto, or of measures it adopts, it shall inform such persons in writing and provide them with an opportunity to comment on the matter within a reasonable time limit.

(2) On receiving a reply or after the expiry of the time limit set for the reply referred to in the preceding paragraph, the Agency may require the cessation immediately or within a

reasonable period of time of the breach referred to in the preceding paragraph of this Article, and at the same time adopt appropriate and proportionate measures to ensure the elimination of irregularities.

(3) By a decision issued in the supervision procedure which contains measures and reasons for the elimination of irregularities and a reasonable time limit for compliance with the imposed measures, the Agency may also impose cessation or suspension of the provision of services or a bundle of services which, if continued, could cause substantial harm to competition, for as long as the person referred to in paragraph one of this Article fails to meet its obligation of access on the basis of market analysis carried out in accordance with Article 147 of this Act.

(4) The Agency may issue a decision establishing the existence of a breach of the provisions of this Act and of the regulations and general acts issued on the basis thereof, or measures adopted by itself, even in cases where the breach has already ceased. By a decision issued in the course of a supervision procedure, the Agency may impose on a natural or a legal entity the measures necessary to remedy the breach or its consequences, including, in particular, the reimbursement of amounts overcharged or the retroactive regularisation of the contractual relationship.

(5) In instances of breaches of Article 149 and points one and two of paragraph one of Article 265 of this Act, the provisions of paragraphs one and two of this Article shall not apply.

(6) If the measures referred to in paragraph two of this Article have not been complied with within the specified time limit, the Agency may, in the event of serious and repeated breaches, by decision prohibit the person referred to in paragraph one of this Article from further provision of electronic communications networks or services or suspend or withdraw the right to use radio frequencies or numbering resources.

(7) In the event of a breach referred to in the preceding paragraph, the Agency may impose a fine for a minor offence on the person referred to in paragraph one of this Article for the period of the breach, even if the breach may have been subsequently remedied.

(8) Notwithstanding the provisions of paragraphs one, two and five of this Article, where the Agency has evidence of a breach which constitutes an immediate and serious threat to public order, public safety and the life and health of people, or is likely to cause serious economic or operational difficulties to other providers or users of electronic communications networks or services or other users of the radio spectrum, it may take urgent interim measures to remedy the situation before adopting a final decision and without first setting a time limit for the remedy of the irregularities or giving an opportunity to be heard on the matter. In such case, the person referred to in paragraph one of this Article shall be given the opportunity to be heard on the matter and to propose a solution, but only after the adoption of the urgent interim measures.

Article 291
(Duration of interim measures)

The interim measures referred to in paragraph eight of the preceding Article shall be valid for a maximum period of three months, which may be extended for a further period of up to three months if the enforcement proceedings are still pending.

Article 292
(Authorised persons of the Agency)

(1) The supervisory tasks of the Agency pursuant to this Chapter shall be undertaken by persons employed by the Agency who have relevant authorisation from the Minister (hereinafter: authorised Agency personnel).

(2) The power to undertake supervisory tasks shall be demonstrated by an official identity card issued by the Minister.

(3) Authorised Agency employees must meet the conditions for inspectors laid down by the Act governing inspection.

(4) The persons referred to in paragraph one of this Article shall independently perform supervisory tasks under this Act, conduct administrative procedures and issue decisions and resolutions in administrative procedures. The provisions of the Act governing inspection supervision shall apply *mutatis mutandis* to other powers, competences, procedures and measures.

Article 293
(Legal remedies)

(1) Decisions of the Agency and the Information Commissioner issued in an inspection procedure pursuant to this Act shall be final in the administrative procedure. An action against such decision may be filed in an administrative dispute.

(2) An action in an administrative dispute against a final decision issued in a supervisory procedure under this Act shall be filed at the registered office of the Administrative Court of the Republic of Slovenia.

(3) The Agency shall publish on its website information on the decisions of the courts referred to in the preceding paragraph on legal remedies lodged against the Agency's decisions referred to in paragraph one of this Article.

Article 294
(Minor offence proceedings)

The minor offence proceedings referred to in the preceding paragraph shall be conducted using an expedited procedure in accordance with the Act governing minor offences.

XVI. ELECTRONIC COMMUNICATIONS COUNCIL

Article 295
(Electronic Communications Council of the Republic of Slovenia)

(1) The Electronic Communications Council of the Republic of Slovenia (hereinafter: the Council) is an advisory body established by the National Assembly in steering the development of electronic communications and in the protection of consumer interests in the area of electronic communications in the Republic of Slovenia.

(2) The Council shall have 11 members appointed by the National Assembly for a period of five years. Four members shall be appointed from among representatives of consumer organisations and representative organisations of persons with disabilities on the proposal of the National Council of Disability Organisations and educational institutions, such that at least one representative from each of the aforementioned organisations is appointed, while the remaining seven members shall be appointed from among various experts in the area of electronic communications.

(3) The president or deputy president of the Council shall be appointed by the Council members from among their own number.

(4) The following persons may not be members of the Council:

1. members of official bodies of political parties;
2. officials under the Act regulating the salary system in the public sector;
3. public employees in national authorities;
4. persons employed by an operator or members of the supervisory or management board of an organisation engaged in activities in areas regulated by the Agency, or who have ownership interests in organisations engaged in activities in areas falling within the competence of the Agency, or in organisations which have ownership interests in such organisations;
5. persons whose spouse, civil partner and relative up to and including the second branch, is a member of the supervisory or management board of an organisation engaged in activities in areas regulated by the Agency, or who have ownership interests in an organisation engaged in activities in areas falling within the competence of the Agency, or in an organisation which has ownership interests in such organisation.

(5) Council members shall have the right to the reimbursement of costs and to remuneration for their work. The National Assembly shall determine the level of remuneration. The Agency shall provide the means and conditions for the work of the Council and provision of information to the Council.

(6) The Council shall have a secretary who shall assist the president of the Council in the preparation and implementation of sessions and shall perform other professional and administrative tasks necessary for the smooth functioning of the Council. The secretary shall be appointed by the Council on the proposal of the Agency director from among Agency employees. The secretary shall be entitled to receive 70 percent of the attendance fee of an Agency Council member referred to in the preceding paragraph.

Article 296
(Operation of the Council)

(1) The Council shall adopt its rules of procedure.

(2) The Council must meet in session at least twice per year. Sessions shall be called if the director of the Agency or at least four members request a session in writing. The president of the Council may call a session at any time.

(3) The director of the Agency and/or their authorised employees and the minister or representatives of the ministry may attend Council sessions.

(4) A session of the Council shall obtain a quorum if more than half of the members are present. Decisions shall be adopted by a simple majority of members present.

Article 297
(Tasks of the Council)

(1) The Council shall issue opinions, recommendations and proposals regarding matters in the area of electronic communications, including regarding consumer protection, persons with disabilities and users with special social needs in this area. The Agency may ask the Council for an opinion regarding matters in the area of electronic communications. The Council's opinions, recommendations and proposals shall not be binding on the Agency; however, it shall adopt a position with respect to them.

(2) The Council may request information, except personal data, from the Agency, national authorities and other stakeholders in the area of electronic communications. In using confidential information, the Council shall be obliged to maintain its level of confidentiality.

(3) The Agency shall publish opinions, recommendations and proposals referred to in paragraph one of this Article on its website.

XVII. PENALTY PROVISIONS

Article 298
(Minor offences)

(1) Legal entities, sole traders or self-employed persons shall be liable to a fine of up to five percent of the annual turnover generated in the public communications network and/or public communications services market in the preceding financial year for the minor offences of:

1. failing to comply with the imposed obligations to ensure transparency with regard to interconnection or operator access, or failing to comply with a published reference offer for interconnection or operator access, or failing to comply with the obligation to publish a reference offer (paragraphs one, four and five of Article 149 of this Act);
2. failing to comply with the obligations imposed to ensure equal treatment in relation to interconnection and/or operator access (paragraph one of Article 150 of this Act);
3. failing to comply with the obligations imposed to keep separate accounting records for certain activities (paragraphs one, three and five of Article 151 of this Act);
4. failing to comply with the obligations imposed to provide access to communication facilities (paragraph one of Article 152 of this Act);
5. failing to comply with the obligations imposed to meet all reasonable requests for operator access to and use of certain network elements and associated facilities (paragraphs one, two and five of Article 153 of this Act);
6. failing to comply with the obligations imposed in relation to cost recovery and price control (paragraphs one, seven and eight of Article 154 of this Act);
7. failing to comply with the maximum voice termination rates set (paragraphs one and two of Article 155 of this Act);
8. failing to comply with the obligations imposed in relation to the regulation of retail services (paragraphs one, three and four of Article 157 of this Act);
9. failing to comply with the obligations imposed in relation to the transfer of activities to a business entity operating independently (paragraphs one and five of Article 158 of this Act);
10. failing to comply with the obligations imposed in relation to the transition from legacy infrastructure (paragraphs one and two of Article 162 of this Act).

(2) A fine of between 1,000 and 10,000 euro shall be imposed on the responsible person of a legal entity or the responsible person of a sole trader or self-employed person who commits a minor offence referred to in the preceding paragraph.

(3) An individual who commits an offence referred to in paragraph one of this Article shall be liable to a fine of between EUR 500 and EUR 5,000.

Article 299
(Minor offences)

(1) A legal entity shall be liable to a fine from EUR 1,000 to EUR 20,000, and a legal entity deemed to be a medium-sized or large company under the Act governing companies shall be liable to a fine from EUR 50,000 to EUR 400,000, for the minor offences of:

1. failing to notify the Agency in writing prior to the commencement, alteration or termination of the provision of public communications networks and/or publicly available communications services (paragraphs one and nine of Article 5 of this Act),
2. failing to provide electronic communications networks and/or services in a legally independent company, or failing to keep separate financial accounts for activities associated with the provision of electronic communications services or networks (paragraph one of Article 8 of this Act),
3. failing to notify the Agency of its intention to commence planned construction works and of issuing a call to interested co-investors in accordance with paragraph one of Article 11 of this Act,
4. failing to submit information under proportionate, non-discriminatory and transparent conditions within the time limit and under the conditions referred to in paragraph five of Article 11 of this Act,
5. failing to offer to interested co-investors the conclusion of an adequate contract in accordance with paragraph two of Article 12 of this Act,
6. failing to plan its network in accordance with paragraph four of Article 12 of this Act,
7. failing to install vacant cable ducts of sufficient capacity when constructing the public service infrastructure and/or failing to make them available under the same conditions to all natural persons or legal entities providing electronic communications networks and associated infrastructure (paragraph eight of Article 12 of this Act),
8. failing to provide information or providing incorrect information to the authority responsible for mapping and surveying in accordance with paragraphs one, four and seven of Article 15 of this Act;
9. failing to grant access within the time limit and under the conditions referred to in paragraph two of Article 16 of this Act,
10. failing to grant a request for inspection within the time limit and under the conditions referred to in paragraph four of Article 16 of this Act,
11. not handling the information obtained pursuant to Article 16 of this Act in accordance with the regulations on classified information, the regulations governing the protection of business secrets and the regulations governing the protection of personal data, or failing to take appropriate technical and organisational measures to protect confidentiality, secrecy and operational and business secrets (paragraph five of Article 16 of this Act),
12. providing, intentionally or through wilful negligence, any misleading, false or incomplete information in the context of a market interest inquiry for the construction of high-capacity networks referred to in paragraphs two, third, six and seven of Article 19 of this Act,
13. not using radio frequencies in accordance with the provisions of the general act referred to in paragraphs one and two of Article 35 of this Act,
14. using radio frequencies contrary to the provisions of a general act issued by the Agency pursuant to paragraphs one to four of Article 39 of this Act,

15. failing to act in accordance with the decision on the assignment of radio frequencies referred to in paragraph one of Article 64 of this Act,
16. a legal entity not acting in accordance with a decision issued on the basis of a joint selection procedure carried out by the competent EU institutions pursuant to an EU regulation (paragraph three of Article 64 and point eleven of paragraph one of Article 65 of this Act),
17. being the holder of a decision on the assignment of radio frequencies and, without the prior consent of the Agency, transferring the right to use such radio frequencies or leasing the right to use such radio frequencies (paragraph one of Article 69 of this Act),
18. accumulating radio frequencies for the purpose of restricting market competition (Article 74 of this Act),
19. using numbering resources without a valid decision on the assignment of numbering resources (Article 99 of this Act),
20. assigning the assigned numbers to service providers on the basis of a legal transaction and in so doing, charging more than the actual costs or discriminating among service providers in respect of the blocks of numbers used to access their services (paragraph seven of Article 101 of this Act),
21. being the holder of a decision on the assignment of numbering resources and transferring their right of use of such numbering resources without the prior consent of the Agency (paragraph one of Article 106 of this Act),
22. failing to adopt a security management system in accordance with paragraph one of Article 115 of this Act, including the measures involving the ISMS referred to in paragraph two of Article 115 of this Act and the BCMS referred to in paragraph four of Article 115 of this Act,
23. failing to designate the ISMS or the BCMS as a business secret or to implement, monitor and regularly improve them, including the related measures contained therein, in accordance with paragraphs two and four of Article 115 of this Act,
24. failing to adopt, review or update the BCMS in the part relating to emergency communications with the prior approval of the competent authorities responsible for the operation of public safety answering points in accordance with paragraph five of Article 115 of this Act,
25. failing to comply with the additional security requirements and restrictions referred to in Article 116 of this Act,
26. failing to notify the designated entities of security incidents in the prescribed manner, in accordance with paragraph one of Article 118 of this Act,
27. in the event of a specific and serious threat of a security incident, failing to inform its users free of charge of any protective or corrective measures in accordance with paragraph eight of Article 118 of this Act,
28. in the event of a major or critical incident or of a cyber-attack, failing to implement the measures imposed by the written decision referred to in paragraph three of Article 120 of this Act,
29. in a situation of increased threat, failing to implement the measures imposed by the written decision referred to in paragraph four of Article 121 of this Act,
30. failing to facilitate the implementation of a security audit in accordance with the request of the Agency and the prescribed procedure for security audits referred to in paragraph one of Article 123 of this Act,
31. failing to establish, document, implement or maintain processes, procedures and controls for the provision of the BCMS, including the provision of alternative channels, in accordance with paragraph one of Article 124 of this Act, in the event of situations of threat,
32. failing to establish and maintain adequate capabilities, measures and arrangements with other operators in accordance with paragraph two of Article 124 of this Act,
33. failing to implement, monitor or regularly improve the measures, plans and capabilities in accordance with paragraph three of Article 124 of this Act,

34. failing to adopt, review or, where necessary, update with the prior approval of the designated authorities in accordance with paragraph four of Article 124 of this Act, the part of the BCMS that refers to the provision of emergency communications in situations of threat,
35. in the event of situations of threat, failing to provide as a priority the operation of specific parts of the network, services and connections in accordance with paragraph one of Article 125 of this Act,
36. failing to adapt its network so as to provide the priority function in accordance with paragraph two of Article 125, or failing to provide priority to users with the right to priority network termination points in accordance with the decree referred to in paragraph three of Article 125 of this Act,
37. in the event of natural or other disasters, an announced epidemic or catastrophic network failure, failing to take other measures or to restrict or interrupt the operation in accordance with the measures adopted by the Government (paragraph four of Article 125 of this Act),
38. failing to take appropriate technical and organisational measures to minimise disruption to their activities in the event of situations of threat, and failing to implement them throughout the duration of the circumstances that led to their adoption (paragraph one of Article 126 of this Act),
39. failing to ensure uninterrupted access to and use of emergency communication numbers (paragraph two of Article 126 of this Act),
40. failing to adopt an internal act in accordance with paragraph one of Article 127 of this Act,
41. failing to negotiate regarding interconnection (paragraph one of Article 130 of this Act),
42. failing to protect the confidentiality of all data when concluding interconnection and/or operator access contracts (paragraph three of Article 130 of this Act),
43. failing to comply with the Agency's decision referred to in paragraph four of Article 130 of this Act,
44. failing to comply with the obligations under the decision referred to in paragraph one of Article 131 of this Act,
45. failing to comply with the obligation laid down in the decision referred to in Article 132 of this Act concerning the provision of access to application programme interfaces or electronic programme guides, or failing to provide such access under fair, reasonable and non-discriminatory conditions,
46. failing to fulfil obligations relating to the sharing of passive infrastructure and/or obligations to conclude localised national roaming agreements (paragraph one of Article 133 of this Act),
47. failing to provide technical services under fair, reasonable and non-discriminatory conditions (paragraph one of Article 134 of this Act),
48. failing to keep accounts for the provision of conditional access services separate from other activities (paragraph two of Article 134 of this Act),
49. failing to grant to user equipment manufacturers industrial property rights for conditional access products and systems under fair, reasonable and non-discriminatory conditions (paragraph three of Article 134 of this Act),
50. preventing, by applying any conditions, manufacturers from incorporating into a single product common interfaces enabling connection to other access systems, or elements specific to another access system (paragraph three of Article 134),
51. failing to classify channels in accordance with Article 135 of this Act,
52. failing to comply with a decision of the Agency ordering the sharing referred to in paragraph one of Article 136, or a decision imposing obligations in relation to the sharing referred to in paragraphs one and two of Article 138 of this Act,
53. failing to offer to conclude an appropriate agreement on access to the distribution point and the in-building physical infrastructure on fair and non-discriminatory terms, including, where applicable, the price (paragraph two of Article 137 of this Act),

54. using the physical infrastructure of another infrastructure operator for the purpose of deploying elements of electronic communications networks without concluding an agreement on access conditions or the Agency's decision referred to in Article 139 of this Act,
55. failing to make an offer for the sharing of facilities on fair and reasonable terms in the event of a request from a network operator (paragraph four of Article 139 and Article 140 of this Act),
56. failing to exercise the shared use rights in accordance with Article 141 of this Act,
57. failing to inform the Agency in accordance with paragraph one of Article 159 of this Act,
58. failing to comply with the commitments which are specified as binding in the decision referred to in paragraph five of Article 160 of this Act,
59. failing to notify the Agency of any change in circumstances in accordance with paragraph four of Article 161 of this Act,
60. failing to notify the Agency in writing in accordance with paragraph one of Article 162 of this Act,
61. failing to set the same prices throughout the territory of the Republic of Slovenia for services provided as universal service (paragraph four of Article 166 of this Act),
62. failing to provide universal service as imposed by a decision of the Agency (paragraphs one and four of Article 169 of this Act),
63. being a universal service provider and failing to notify the Agency in writing prior to the intended transfer of its local access network assets to another legal entity under different ownership (paragraph one of Article 170 of this Act),
64. failing to contribute the calculated liability to the compensation fund within the time limit and in the amount laid down by decision of the Agency (paragraph five of Article 172 of this Act),
65. failing, within the time limit stipulated by this Act, to inform the Agency of their revenues from the provision of public communications networks and/or services (paragraph six of Article 172 of this Act),
66. hindering the Agency in reviewing data and assessing the revenue (paragraph seven of Article 172 of this Act),
67. failing to ensure that the prices of individual services provided as universal service and the conditions attached thereto are disclosed publicly and are transparent and non-discriminatory (paragraph two of Article 173 of this Act),
68. failing to comply with the decision of the Agency referred to in paragraph three of Article 173 of this Act on the provision of special price options or bundles for consumers with low incomes or special needs,
69. failing to set prices and general conditions in such a way that subscribers to a service provided as a universal service are not required to pay for facilities or services which are not necessary or required for that service (paragraph one of Article 176 of this Act),
70. failing to provide its subscribers with number portability (paragraph one of Article 195 of this Act),
71. failing to implement number portability and number activation within the time limit set out in paragraph three of Article 195 of this Act,
72. charging the subscriber for the porting of a number to another operator in contravention of paragraph six of Article 195 of this Act,
73. charging prices for interconnection that are not cost-oriented (paragraph six of Article 195 of this Act),
74. causing delays in the process of switching between providers of internet access or number porting, abusing the process or porting numbers or switching end-users without their express consent (paragraph one of Article 196 of this Act),
75. failing to refund any remaining credit to a subscriber who is a consumer in accordance with paragraph five of Article 196 of this Act,
76. failing to provide information concerning internet access services or publicly available interpersonal communication services in accordance with the general act referred to in paragraph three of Article 197 of this Act,

77. failing to provide information in a manner and in a format which enables end-users with disabilities to access such information (paragraph four of Article 197 of this Act),
78. failing to comply with the provisions of the general act referred to in paragraph one of Article 199 of this Act,
79. failing to provide users with free access to emergency services on emergency communication numbers via emergency communications (paragraph one of Article 200 of this Act),
80. failing to enable end-users with disabilities to make emergency calls using spoken and sign languages and other forms of non-spoken languages in the manner and to the extent technically feasible (paragraph three of Article 200 of this Act),
81. failing to provide free of charge the transmission of emergency communications and alternative routes in accordance with paragraph four of Article 200 of this Act,
82. failing to provide the information on the caller's number and location to the most appropriate PSAP, to the extent technically feasible (paragraph five of Article 200 of this Act),
83. failing to ensure the transmission of voice calls and the standardised minimum data set of the emergency call in-vehicle system (eCall) to the most appropriate PSAP (paragraph seven of Article 200 of this Act),
84. failing to inform users in accordance with paragraph eight of Article 200 of this Act;
85. failing, for outgoing calls from the single European emergency telephone number 112, the police number 113 and the single European telephone number for reporting missing children 116 000, to enable the outgoing call to be uniquely displayed in the form of the three-digit call number 112, 113 or 116, as far as technically feasible (paragraph nine of Article 200 of this Act),
86. failing to ensure that end-users are informed and warned through the public mobile network in the area designated by the competent authority for protection and rescue (paragraph one of Article 201 of this Act),
87. failing to comply with the prescribed requirements for the interoperability of digital interactive television services and digital television equipment used by consumers (paragraph three of Article 203 of this Act),
88. failing to announce restrictions or interruptions of access to its services or failing to notify users and the Agency of major restrictions or interruptions due to faults or defects (paragraph two of Article 208 of this Act),
89. restricting access to its services or disconnecting and terminating the subscription of a subscriber who has paid the undisputed part of an invoice or an amount corresponding to the average value of the last three undisputed invoices within the time limit, before the final settlement of the dispute or before the final decision of the Agency on the grounds of non-payment of the obligation, although the subscriber has lodged an objection or proposed a settlement of the dispute, or if a consumer has initiated a procedure pursuant to the Act governing out-of-court settlement of consumer disputes (paragraph fourteen of Article 209 of the present Act),
90. failing to take appropriate technical and organisational measures to ensure the security of their services (paragraph one of Article 212 of this Act),
91. failing to take such measures as to ensure a level of security and protection appropriate to the risk envisaged (paragraph two of Article 212 of this Act),
92. failing to warn users of specific risks to the security of the network or services as soon as it becomes aware of the risk, or to inform them of all possible means of addressing the risk and the likely costs, or to give users prompt and effective access to protective measures (paragraph one of Article 213 of this Act),
93. failing to protect the confidentiality of electronic communications even after the cessation of the activities in which the operator was bound by confidentiality obligations (paragraph two of Article 214 of this Act),
94. obtaining for itself or for others information on the communications to the extent exceeding what is strictly necessary for the provision of certain public communications

services and failing to use or communicate that information to others only for the purpose of providing those services (paragraph three of Article 214 of this Act),

95. failing to inform the subscriber or user and failing to delete the information on the content of the communication and/or communication in accordance with paragraph four of Article 214 of this Act,
96. surveillance or interception of communications where this is not expressly permitted by this Act (paragraph five of Article 214 of this Act),
97. recording and storing communications in contravention of paragraph six of Article 214 of this Act,
98. failing to properly inform the parties to the communication in advance of recording, its purpose and the duration of the retention of the recording, or failing to delete the recorded communication in a timely manner in accordance with paragraph seven of Article 214 of this Act,
99. failing to give notice of the recording through the same medium and in the same form as the recorded communication (paragraph eight of Article 214 of this Act),
100. failing to establish internal procedures and failing to provide indelible records of its response to the requests for access to subscribers' personal data in accordance with paragraph one of Article 216 of this Act,
101. failing to delete or modify traffic data after the termination of communication so that they cannot be linked to a specific or identifiable person (paragraph one of Article 218 of this Act),
102. in contravention of paragraph three of Article 218 of this Act, failing to obtain the prior consent of the subscriber and/or user or, prior to the consent given, failing to inform the subscriber and/or user of the types of traffic data to be processed and the purpose and duration of such processing,
103. traffic data being processed by someone else instead of persons under the operator's supervision (paragraph five of Article 218 of this Act),
104. failing to transmit traffic data to the Agency, to a provider of an out-of-court settlement of consumer disputes or to a competent court on a written request made for the purpose of dispute resolution and in accordance with the applicable law (paragraph six of Article 218 of this Act),
105. failing to process location data only in such a form that they cannot be linked to a specific or identifiable person, or on the basis of the prior consent of the user or the subscriber, to the extent or for the duration necessary for the provision of the value-added service (paragraph one of Article 219 of this Act),
106. breaching the right of the user or subscriber to withdraw the consent given for the processing of location data for the purposes of the provision of a value-added service (paragraph one of Article 219 of this Act),
107. failing to ensure that the processing of location data is carried out solely by persons under the supervision of the operator or by third parties providing a value-added service (paragraph four of Article 219 of this Act),
108. failing to retain the data referred to in paragraph one of Article 220 of this Act in the manner and under the conditions referred to in Article 221 of this Act or failing to ensure an indelible registration of the measures and interventions carried out in accordance with paragraph two of Article 221 of this Act (paragraph five of Article 220 of this Act),
109. failing to send the information to the applicant as soon as possible or as soon as technically feasible following a request from the applicant (paragraph seven of Article 220 of this Act),
110. failing to notify the Agency immediately in the event of a breach of personal data protection (paragraph one of Article 227 of this Act),
111. failing to inform the subscriber or individual concerned of a breach of personal data protection without undue delay if the personal data and privacy of the subscriber or individual are likely to be adversely affected by the breach of personal data protection (paragraph two of Article 227 of this Act),

112. failing to comply with the obligation imposed by the Agency to notify the subscriber or individual concerned of a breach of personal data protection or to notify the Agency of compliance with such obligation (paragraph four of Article 227 of this Act),
113. the notification to the subscriber or individual of a personal data breach not containing the prescribed content (paragraph five of Article 227 of this Act),
114. not keeping an adequate register of breaches of personal data protection (paragraph seven of Article 227 of this Act),
115. not initiating lawful interception of communications on receipt of the transcript of the order of a competent body and/or a verbal order (paragraphs one and four of Article 228 of this Act),
116. not carrying out lawful interception of communications in the manner, to the extent and for the duration specified in the transcript of the operative part of the order or in the verbal order (paragraphs three and four of Article 228 of this Act),
117. failing to ensure a thirty-year indelible registration of the interception or failing to protect the data in accordance with the classification marking of the transcript of the order (paragraph five of Article 228 of this Act),
118. failing to provide adequate equipment and appropriate interfaces or appropriate transmission routes to interfaces in the control centre of the responsible body (paragraph six of Article 228 of this Act),
119. obstructing the authorised persons of the Agency or the Information Commissioner in the performance of their administrative supervision tasks (Articles 287 and 289 to 291 of this Act).

(2) A fine of between EUR 1,000 and 20,000 shall be imposed on a sole trader or a self-employed person who independently carries out an activity, if they commit an offence referred to in the preceding paragraph.

(3) A fine of between EUR 500 and 10,000 shall be imposed on the responsible person of a legal entity, on the responsible person of a sole trader or on the responsible person of a self-employed person who commits the offence referred to in paragraph one of this Article.

(4) A fine of between EUR 500 and 10,000 shall be imposed on the responsible person in a state body or self-governing local community who commits an offence referred to in points 3, 4 or 5 of paragraph one of this Article.

(5) A fine of between EUR 1,000 and 5,000 shall be imposed on an individual person who commits an offence referred to in paragraph one of this Article.

(6) In determining the fine for the offence referred to in point 12 of paragraph one of this Article, account shall be taken of whether the conduct of the offender has had adverse effects on competition and, in particular, whether the offender has deployed, extended or upgraded the networks, or has not deployed the network and has not objectively justified the change of plan, in contravention of the information originally provided or of any updates thereof.

Article 300
(Minor offences)

(1) A legal entity shall be liable to a fine of between EUR 500 and EUR 15,000, and a legal entity deemed to be a medium-sized or large company under the Act governing companies shall be liable to a fine of between EUR 20,000 and EUR 50,000 if:
1. it builds communication networks and associated infrastructure in contravention of paragraph six of Article 10 of this Act;

2. when building or reconstructing multiple dwellings and non-residential buildings, it does not design and construct the in-building physical infrastructure in accordance with paragraph seven of Article 10 of this Act;
3. the concluded agreement on the right of use does not contain all the mandatory elements referred to in paragraphs three, five and nine of Article 27 of this Act,
4. it does not provide operators with access under transparent, fair and non-discriminatory terms, to physical infrastructure owned or operated by it which is technically suitable for the deployment of small-area wireless access points or is required in order to connect such access points with the backbone network (paragraph two of Article 76 of this Act),
5. it unilaterally restricts or prevents end-users from accessing radio local area networks of their choice provided by third parties, or from allowing reciprocally or, more generally, accessing the networks of such providers by other end-users through radio local area networks (paragraph five of Article 77 of this Act),
6. it builds a network in contravention of Article 80 of this Act,
7. it fails to fulfil the obligations associated with the separation of accounts, and/or does not perform the activities associated with the management of a multiplex system through a legally independent company (paragraph one of Article 83 of this Act),
8. it does not provide equal and non-discriminatory conditions for accessing the multiplex system (paragraph one of Article 84 of this Act),
9. it uses radio frequencies for multiplexing without a valid decision on the assignment of radio frequencies or in contravention of the decision on the assignment of radio frequencies for multiplexing (Article 85 of this Act),
10. it makes use of the free capacity of the multiplex system intended for public broadcasting in contravention of paragraph two of Article 86 of this Act,
11. it places on the market a radio receiver which does not comply with the requirements laid down in Article 94 of this Act,
12. it fails to communicate to the Agency all information on transactions relating to the numbers assigned (paragraph seven of Article 101 of this Act),
13. it does not act in accordance with the decision on the assignment of numbering resources referred to in paragraph one of Article 102 of this Act,
14. it does not inform its subscribers in accordance with paragraph one of Article 109 of this Act,
15. it does not enable end-users to call all numbers provided in the EU, including Universal International Freephone Numbers, and to access and use services using non-geographic numbers within the EU, where economically feasible (paragraph one of Article 113 of this Act),
16. it does not regularly inform the Agency of the details of price options and bundles in accordance with paragraph five of Article 173 of this Act,
17. it does not provide its subscribers with the cost control options in accordance with paragraph two of Article 176 of this Act,
18. it does not provide for a level of itemised billing that enables subscribers to verify and control the usage and the amount charged (paragraph one of Article 177 and paragraph two of Article 207 of this Act),
19. it does not provide a basic level of itemised bills free of charge to subscribers (paragraph two of Article 177 and paragraph two of Article 207 of this Act),
20. it does not comply with a subscriber's request not to receive itemised bills (paragraph two of Article 177 and paragraph two of Article 207 of this Act),
21. the basic level of itemised bills does not contain the elements specified by the general act referred to in paragraph three of Article 177 of this Act;
22. it restricts access to its services or disconnects the subscriber and terminates the subscriber contract for reasons not provided for in its general conditions (paragraph one of Article 178 of this Act),
23. the measure it takes is not provided for in its general conditions and/or is not proportionate to the breaches or is discriminatory (paragraph one of Article 178 of this Act),

24. it fails to warn the user in accordance with paragraph two of Article 178 of this Act,
25. for non-payment of bills, it takes the measure referred to in paragraph three of Article 178 of this Act without prior notice,
26. it does not disconnect the user from the unpaid or underpaid service only, even if such disconnection is technically feasible (paragraph four of Article 178 of this Act),
27. it restricts the subscriber's access to electronic communications services in contravention of paragraph five of Article 178 of this Act,
28. it fails to comply with Article 183 of this Act,
29. before the conclusion of a contract, it fails to provide the information referred to in paragraphs one to four of Article 186 of this Act,
30. it fails to provide information in accordance with paragraphs five and six of Article 186 of this Act prior to the conclusion of the contract,
31. it does not provide a summary of the contract or the summary does not contain all the information referred to in paragraph one of Article 187 of this Act,
32. the subscriber contract does not contain all the prescribed elements (paragraph one of Article 188 of this Act),
33. it does not comply with the maximum duration of a fixed-term contract referred to in paragraph two of Article 190 of this Act or the initial binding commitment period referred to in paragraph one of Article 191 of this Act,
34. it does not inform the subscriber of the termination of the contractual obligation and of the means of termination of the contract in a clear manner and on a durable medium, and/or does not advise them on the best price options in relation to the services subscribed for (paragraph two of Article 190 of this Act),
35. it does not inform its subscribers in accordance with paragraph one of Article 192 of this Act,
36. it does not provide subscribers with a choice upon their termination of the subscriber contract in accordance with paragraph five of Article 192 of this Act,
37. it does not provide the subscriber who is a consumer with the means to monitor and control the consumption of services in accordance with paragraph one of Article 198 of this Act,
38. it does not regularly provide its subscribers with clear and comprehensible information on the options to monitor and control the consumption of services (paragraph two of Article 198 of this Act),
39. it does not provide for the prescribed tone dialling and/or display of the identity of the calling line, where technically feasible (paragraph one of Article 206 of this Act),
40. after termination of the internet access contract, it fails to provide access to electronic mail free of charge at the request of the user (paragraph two of Article 206 of this Act),
41. it fails to provide the prescribed cost control options (paragraph three of Article 206 of this Act),
42. it fails to comply with the prescribed obligations relating to restriction or disconnection for reasons attributable to the subscriber (paragraph four of Article 206 of this Act),
43. it fails to specify in the general terms and conditions any itemised billing beyond the basic level of itemised billing pursuant to paragraph three of Article 207 of this Act,
44. it does not comply with the rules on the protection of privacy when issuing an itemised bill (paragraph four of Article 207 of this Act),
45. it does not keep the request for the provision of itemised bills containing unmasked called numbers in accordance with paragraph five of Article 207 of this Act,
46. the operator fails to properly record the end-user's error report (paragraph three of Article 209 of this Act),
47. the operator uses the collected data in contravention of paragraphs two or three of Article 215 of this Act,
48. it does not inform subscribers in advance and free of charge of the purpose of the directory referred to in paragraph one of Article 217 of this Act and of any further possible uses of the subscriber's data (paragraph one of Article 217 of this Act),

49. it does not give subscribers the opportunity to decide whether to be entered in the public directory (paragraph two of Article 217 of this Act),
50. it fails to indicate, within the statutory time limit, the prohibition on the use of the subscriber's personal data for commercial or research purposes (paragraph three of Article 217 of this Act),
51. the refusal of being entered in the public directory, the verification, modification or the deletion of personal data and/or the entry of a prohibition on the use of the subscriber's personal data for the purpose referred to in paragraph three of Article 217 of this Act are not free of charge (paragraph four of Article 217 of this Act),
52. despite the subscriber's prohibition on the use of their personal data for calls having a commercial or research purpose, it uses such data for that purpose (paragraph five of Article 217 of this Act),
53. it does not specify in its general conditions which traffic data will be processed or for how long (paragraph four of Article 218 of this Act),
54. it does not inform the user, before their giving of consent, of the possibility of refusing the consent, the type of location data to be processed, the purpose and duration of such processing of location data and the possibility of transmitting such location data to third parties (paragraph two of Article 219 of this Act),
55. it does not give the subscriber or user the option to temporarily prevent the processing of location data at any time, easily and free of charge, for each connection to the network or for each transmission of a communication (paragraph three of Article 219 of this Act),
56. in the case of offering calling line identity, it does not give the calling user the option, using a simple means and at no charge, of blocking calling line identification (paragraph one of Article 222 of this Act),
57. in the case of offering of calling line identity, it does not give the subscriber, on their request, the option of an automatic and free of charge blocking of calling line identification for all calls made from its connections (paragraph one of Article 222 of this Act),
58. it does not override, free of charge, the blocking of the calling line identity for calls to the emergency communication numbers, notwithstanding the provisions of paragraphs one and two of Article 222 of this Article),
59. in the case of offering of calling line identity, it does not provide the called subscriber with the option, using a simple means, free of charge and with reasonable use of this function, of blocking calling line identification for incoming calls (paragraph three of Article 222 of this Act),
60. in the case of offering of calling line identity and where the calling line identity is already displayed before the connection is established, it does not provide the called subscriber with the option, using a simple means, of rejecting incoming calls where the calling line identification has been blocked by the calling user or subscriber (paragraph four of Article 222 of this Act),
61. in the case of offering of connected line identification, it does not provide the called subscriber with the option, free of charge and using a simple means, of blocking connected line identification from the calling user (paragraph five of Article 222 of this Act),
62. it does not publish the option of displaying and blocking calling and connected line identification in its general conditions (paragraph six of Article 222 of this Act),
63. it does not enable the provision of paragraph one of Article 222 of this Act to also apply to calls originating in EU Member States and terminating in third countries, and does not enable the provisions of paragraphs three, four and five of Article 222 to also apply to incoming calls originating in third countries (paragraph seven of Article 222 of this Act),
64. it does not provide for the option of tracing malicious or nuisance calls in accordance with paragraphs one, two and three of Article 223 of this Act,
65. it does not ensure the retention of data in accordance with paragraph four of Article 223 of this Act,

66. it fails to provide the Agency with the requested data to the extent and within the time limit in accordance with paragraphs one, three, four, six and seven of Article 265 of this Act,
67. it restricts, delays or slows down internet traffic in contravention of paragraph two or three of Article 268 of this Act.

(2) A fine of between EUR 500 and 15,000 shall be imposed on a sole trader or a self-employed person, if they commit an offence referred to in the preceding paragraph.

(3) A fine of between EUR 200 and 2,000 shall be imposed on the responsible person of a legal entity or the responsible person of a sole trader or a self-employed person who commits an offence referred to in paragraph one of this Article.

(4) A fine of between EUR 200 and 2,000 shall be imposed on an individual who commits an offence referred to in paragraph one of this Article.

Article 301
(Minor offences)

(1) A legal entity shall be liable to a fine of between EUR 200 and 1,000, and a legal entity which is deemed to be a medium-sized or large company under the Act governing companies shall be liable to a fine of between EUR 1,000 and 20,000, if:

1. it fails to notify the Agency of changes relating to the information required by law within the statutory time limit (paragraph four of Article 5 of this Act),
2. it fails to provide the Agency with the required information within the statutory time limit or provides incorrect information on the amount of its annual revenue from the provision of public communications networks and/or public communications services (paragraph four of Article 6 of this Act),
3. it fails to notify, within the statutory time limit, any changes to the data concerning the holder of the right to use radio frequencies or any changes to the name of the programme (paragraph five of Article 64 of this Act),
4. it fails to notify, within the statutory time limit, any changes to the data concerning the holder of the right of use for numbering resources (paragraph two of Article 102 of this Act),
5. the quality of the universal service deviates from the quality offered for other comparable services (paragraph five of Article 166 of this Act),
6. it fails to comply with the content of the general act referred to in paragraph one of Article 179 of this Act or fails to send the Agency information on the quality of universal service, including any changes thereto (paragraph three of Article 179 of this Act),
7. it connects radio or terminal equipment to the public communications network in contravention of the provision of paragraph one of Article 204 of this Act,
8. it refuses to connect radio or terminal equipment in contravention of the provision of paragraph two of Article 204 of this Act,
9. it does not make it possible for all its subscribers to be entered in the universal directory provided under universal service (Article 205(1) of this Law),
10. it does not provide all users with access to the relevant directory enquiry services in other EU Member States (paragraph three of Article 205 of this Act),
11. it does not make available relevant information for the purposes of providing publicly available directories or directory enquiry services under fair, objective, cost-oriented and non-discriminatory conditions (paragraph four of Article 205 of this Act),
12. it does not indicate in its explanation that it is its final decision and does not explain in the legal notice the possibility of initiating proceedings before the Agency and/or a provider of an out-of-court settlement of consumer disputes, and does not indicate the time limit for bringing such motion (paragraph seven of Article 209 of this Act),

13. when providing an electronic communications service which allows call forwarding, it does not enable subscribers, on a per-call or per-connection basis, to block automatic call forwarding by a third party, using a simple means and at no charge (Article 224 of this Act),
14. it processes user data obtained in the manner referred to in paragraph one of Article 225 of this Act without the user's prior consent and without clear and full prior notification to the user about the controller and the purposes of the processing of such data (paragraph one of Article 225 of this Act),
15. it uses automated calling and communication systems to make calls to the subscriber's telephone number without human intervention (e.g. automatic calling machines, SMS, MMS), or sends faxes or e-mails for the purposes of direct marketing without the subscriber's or user's prior consent (paragraph one of Article 226 of this Act),
16. it uses the obtained e-mail address of the customer for the direct marketing of its products or services without providing the customer with a clear and explicit option to prevent such use of their e-mail address free of charge and using a simple means at the time when these contact details are obtained, and at the time of each communication, if the customer has not already refused such use at the outset (paragraph two of Article 226 of this Act),
17. it uses direct marketing means by electronic communications other than those laid down in paragraphs one and two of Article 226 of this Act, without the consent of the subscriber or user (paragraph three of Article 226 of this Act),
18. the refusal of consent is not free of charge for subscribers or users concerned (paragraph three of Article 226 of this Act),
19. when using a voice communication service, it does not take into account the provisions of paragraphs three, four and five of Article 217 of this Act (paragraph three of Article 226 of this Act),
20. in direct marketing by means of electronic communications, it uses a hidden or disguised identity or an invalid address, inviting the recipients to visit websites which are in contravention of the Act governing the electronic commerce market (paragraph five of Article 226 of this Act).

(2) A fine of between EUR 200 and EUR 1,000 shall be imposed on a sole trader or a self-employed person who commits an offence referred to in the preceding paragraph.

(3) A fine of between EUR 100 and EUR 500 shall be imposed on the responsible person of a legal entity or the responsible person of a sole trader or a self-employed person who commits an offence referred to in paragraph one of this Article.

(4) A fine of between EUR 300 and EUR 1,000 shall be imposed on an individual who commits an offence referred to in paragraph one of this Article.

Article 302
(Minor offences)

(1) A fine of between EUR 500 and EUR 5,000 shall be imposed on a legal entity if it uses radio frequencies intended for amateur and amateur satellite services without a valid radio amateur licence or without a valid CEPT radio amateur licence (paragraphs one and two of Article 40 of this Act), or if it uses radio frequencies intended for amateur and amateur satellite services in contravention of the provisions of the Agency's general act (paragraph five of Article 40 of this Act).

(2) A fine of between EUR 100 and EUR 500 shall be imposed on the responsible person of a legal entity who commits an offence referred to in the preceding paragraph.

(3) A fine of between EUR 200 and EUR 500 shall be imposed on an individual:

1. if they commit an offence referred to in paragraph one of this Article; or
2. if, despite the warning from the PSAP that they are misusing emergency communications, they call the emergency communication number at least three times in one day (paragraph 12 of Article 200 of this Act).

Article 303
(Amount of the fine in expedited offence procedure)

For offences under this Act, a fine may also be imposed in expedited proceedings in an amount higher than the minimum fine prescribed by this Act.

The Electronic Communications Act – ZEKom-2 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 130/22) contains the following transitional and final provisions:

"XVIII. TRANSITIONAL AND FINAL PROVISIONS

Article 304
(Existing notifications)

Natural persons and legal entities that have notified the Agency in writing pursuant to paragraph one of Article 5 of the Electronic Communications Act (**Official Gazette of the Republic of Slovenia [*Uradni list RS*],** Nos 109/12, 110/13, 40/14 – ZIN-B, 54/14 – Constitutional Court decision, 81/15, 40/17 and 189/21 – ZDU-1M, hereinafter: Electronic Communications Act) that they intend to provide public communications networks or public communications services, shall continue to carry out their activities to the extent, in the manner and under the conditions laid down in this Act.

Article 305
(Geographical survey)

The Agency shall carry out the first survey and announcement of network deployment referred to in Article 18 of this Act no later than by 21 December 2023.

Article 306
(Existing networks on others' land)

(1) Owners of land on which electronic communications networks are constructed or erected shall be obliged to permit the continued use of their land for the purposes of construction or erection, maintenance and operation of an electronic communications network, provided that they or their legal predecessors have consented in writing to such use or that the right to construct is demonstrated by the operators by a construction permit.

(2) The right of the operator arising from the obligation of the owners of the land referred to in the preceding paragraph shall include the entitlements contained in the right of

use under this Act and shall be exercised in accordance with the provisions of Article 26 of this Act.

Article 307
(Existing decisions and procedures)

(1) Decisions issued pursuant to the Electronic Communications Act which are bound by time limits that have not yet expired at the time of the entry into force of this Act may be amended, revoked or terminated under the conditions and in the manner provided for in this Act.

(2) Proceedings conducted by the Agency for Communication Networks and Services of the Republic of Slovenia and the Information Commissioner of the Republic of Slovenia pursuant to the Electronic Communications Act, which have not yet been concluded by the entry into force of this Act, shall be continued in accordance with the provisions of this Act.

(3) Procedures for the allocation of public funds initiated pursuant to the Electronic Communications Act or pursuant to regulations in accordance with the Electronic Communications Act shall be concluded in accordance with the regulations in force at the time the procedure was initiated.

Article 308
(Extension of decisions on the assignment of radio frequencies for the provision of public communications services to end-users)

(1) Notwithstanding the provision of Article 67 of this Act, decisions on the assignment of radio frequencies for the provision of public communications services to end-users issued after 21 December 2020 and before the entry into force of this Act may be extended by a decision for a period of five years upon the proposal of the holder. The decision, issued by the Agency in accordance with the provisions of the Act governing the general administrative procedure, shall extend the right to use individual radio frequency bands and shall set a proportionate amount for the efficient use of the limited natural resource.

(2) In the event of an extension of the decision on the assignment of radio frequencies referred to in the preceding paragraph, the amount fixed for the efficient use of the limited natural resource to ensure the optimal use of the assigned radio frequencies shall be payable after ten years from the date of the original decision on the assignment of radio frequencies. It shall constitute budget revenue. The amount of the payment shall be set at the *pro rata* value of the amount paid for the efficient use of the limited natural resource upon the issuing of the original decision on the assignment of radio frequencies, and shall be revalued with the time value of money.

(3) An application for the extension of the decision referred to in paragraph one of this Article shall be submitted to the Agency not later than one year after the entry into force of this Act.

Article 309
(Publication of information on rights of use of radio frequencies which may be transferred or leased)

The Agency shall publish the information referred to in paragraph seven of Article 69 of this Act on its website within three months of the entry into force of this Act.

Article 310
(Requirements for interoperability of other radio receivers)

The requirements for interoperability of other radio receivers referred to in paragraph two of Article 94 of this Act shall apply from 1 January 2024.

Article 311
(Publication of the numbering resources occupancy survey)

The Agency shall publish the first survey of the occupancy of the numbering resources referred to in paragraph four of Article 98 of this Act within three months of the entry into force of this Act.

Article 312
(Preliminary period for additional security requirements)

(1) The operator of a mobile communications network referred to in paragraph two of Article 116 of this Act shall carry out a risk assessment for its existing equipment and for its existing providers of the third-level support services in accordance with paragraphs two, three and four of Article 116 of this Act no later than within one year of the entry into force of this Act.

(2) Notwithstanding the prohibition of the use of equipment referred to in paragraph five of Article 116 of this Act, the operator referred to in the preceding paragraph may use existing equipment or equipment for which it has already concluded a contract until the end of its useful life, but no longer than seven years from the publication of the information on the decision issued pursuant to paragraph one of Article 117 of this Act in the Official Gazette of the Republic of Slovenia, in accordance with paragraph five of Article 117 of this Act.

(3) Notwithstanding the prohibition on the use of the third-level support services referred to in paragraph five of Article 116 of this Act, the operator referred to in paragraph one of this Article may continue to provide the third-level support services until the expiry of the mutual contracts, but for a maximum of seven years from the publication of the information on the decision issued pursuant to paragraph one of Article 117 of this Act in the Official Gazette of the Republic of Slovenia, in accordance with paragraph five of Article 117 of this Act.

(4) Notwithstanding the commencement of the period referred to in paragraph one of this Article, in the event that the Agency supplements or amends the definitions of critical elements and functions of the network and the associated information systems referred to in paragraph six of Article 116 Act by a general act, the period for the risk assessment with respect to the amending of such general act of the Agency shall be deemed to commence from the date of its entry into force.

Article 313
(Publication of guidelines and information on interconnection and operator access procedures)

The Agency shall publish guidelines and information on procedures for interconnection and operator access referred to in paragraph eight of Article 130 of this Act on its website within three months of the entry into force of this Act.

Article 314
(Validity of decision designating universal service provider)

After the entry into force of this Act, the existing universal service providers shall continue to provide universal service on the basis of a decision issued in accordance with the Electronic Communications Act until the expiry of the validity of that decision.

Article 315
(Electronic Communications Council)

The members of the Electronic Communications Council appointed pursuant to paragraph two of Article 229 of the Electronic Communications Act shall continue their work until the expiry of the period for which they were appointed.

Article 316
(Harmonisation of the Rules of Procedure)

The minister responsible for protection of persons with disabilities shall harmonise the Regulation on technical aids and the adaptation of vehicles (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 71/14, 37/17 and 57/18) with the provision of paragraph one of Article 175 of this Act within six months of the entry into force of this Act.

Article 317
(Public information and alerting)

Providers of publicly available mobile number-based interpersonal communication services shall ensure the notification and warning of end-users through the public mobile network in accordance with Article 201 of this Act no later than one year after the entry into force of this Act.

Article 318
(Harmonisation of general conditions)

Operators shall adapt their general terms and conditions to the provisions of this Act within nine months of its entry into force.

Article 319
(Issuance of implementing regulations and general acts)

(1) The time limit for the issuing of implementing regulations and general acts which are mandatory under this Act shall be no more than six months after the entry into force of this Act.

(2) Article 11 of the Electronic Communications Act shall apply until the decree referred to in paragraph four of Article 20 of this Act is issued.

(3) Within three months of the entry into force of this Act, the Government shall harmonise the Decision on the Establishment of the Post and Electronic Communications Agency of the Republic of Slovenia (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 41/13 and 66/17) with the provisions of this Act.

(4) Within six months of the entry into force of this Act, the Agency shall harmonise the Articles of Association of the Agency for Communication Networks and Services of the Republic of Slovenia (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 43/18) with the provisions of this Act.

Article 320
(Amendments to the Act governing information security)

In paragraph five of Article 21 and in paragraph five of Article 22 of the Information Security Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 30/18 and 95/21), the words "An appeal lodged against the decision referred to in the preceding paragraph shall not stay its execution" shall be replaced by the words "No appeal shall be allowed against the decision referred to in the preceding paragraph, however, an administrative dispute shall be allowed. An action in administrative dispute shall be filed at the seat of the Administrative Court of the Republic of Slovenia. This procedure is urgent and shall be given priority."

Article 321
(End of validity)

(1) On the day this Act enters into force, the following implementing regulations and general acts issued pursuant to the Electronic Communications Act shall cease to be in force:

1. General act on itemised billing (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 99/13);
2. General act on the plan of the use of radio frequencies (NURF-4) (Official Gazette of the Republic of Slovenia [*Uradni list RS*]), Nos 10/18, 46/19, 139/20 and 189/21);
3. General act on the security of networks and services (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 75/3 and 64/15);
4. General act on the conditions for the use of radio frequencies envisaged for amateur-radio and amateur-radio satellite service (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 68/13 and 48/18),
5. General act on the method of taking account of criteria on the offering of price options and of determining packages for consumers with low incomes and/or special needs within the framework of universal service provision (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 62/13),
6. General act on the collection, use and supply of data on the development of the electronic communications market (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 77/16 and 58/19),
7. General act on the form and manner of publication of the notification of a change in the terms and conditions of a subscriber contract (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 62/13 in 43/17),
8. General act on the mediation procedure (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 62/13),
9. General act on the requirements for the interoperability of digital interactive television services and digital television equipment used by consumers (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 62/13 and 43/17),

10. General act on the classification of programmes on public digital television networks (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 48/13),
11. General act on the method of calculation of payment for the use of numbering resources (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 31/13, 21/16, 15/17 and 72/18),
12. General act on the method of calculation of payment for the use of radio frequencies (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 30/13, 33/13 – corr., 40/13 – corr., 81/14, 21/16, 63/16 and 64/19);
13. General act on number portability (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 62/13, 23/18 in 77/18),
14. General act on the numbering plan (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 62/13, 107/13 – corr. and 41/18),
15. General act on the data transmission rate permitting functional Internet access (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 27/18 and 21/21),
16. General act on the quality of universal service (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 27/18 and 21/21),
17. General act on the content and form of notification on the provision of public communications networks or services (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 62/13),
18. General act on the size of numbering blocks for acquisition of which the application must be accompanied by a project (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 72/18),
19. General act on the content and form of the application for a decision on the assignment of numbering resources (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 62/13 and 72/18),
20. General act on the method of calculation of net costs for universal service (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 27/18),
21. General Legal Act on transparency regarding planned construction works and joint construction of public service infrastructure (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 9/18),
22. General act on access to the existing physical infrastructure (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 12/18),
23. General act on minimal requirements in planning and operation of access and distribution points (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 39/18),
24. General act on the monitoring and control of data service usage (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 9/18),
25. General act on internet access services and the related rights of end-users (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 54/19),
26. General act on the plan of RDS system use (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 67/15),
27. General act on restrictions of the modulation signal of analogue voice broadcasting radio stations (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 44/13),
28. General act on the publication of information on tariffs in force (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 31/22),
29. Decree on the radio frequency band allocation plan (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 69/13, 1/17 and 170/20),
30. Decree on measures for end-users with disabilities (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 38/14),
31. Decree on the right to priority network termination points (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 79/13),
32. Rules on the method of implementation of Article 153 of the Electronic Communications Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 73/13).

(2) The implementing regulations and general acts referred to in the preceding paragraph shall apply until implementing regulations pursuant to this Act are issued.

Article 322
(End of validity)

(1) On the day this Act enters into force, the Electronic Communications Act and the following implementing regulations issued pursuant thereto shall cease to be in force:

1. General act on managing the conversion to ENUM domain numbers (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 62/13),
2. General act on the elements of reference offers for wholesale local access at a fixed location (Official Gazette of the Republic of Slovenia [Uradni list RS], No 6/19),
3. General act on the elements of reference offers for unbundled access to local loops (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 62/13 and 6/19),
4. Rules on the categories of consumers entitled to special price options or packages (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 105/13 and 92/10),

(2) On the day of entry into force of this Act, the Digital Broadcasting Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 102/07, 85/10, 47/12, 109/12 – ZEKom-1, 189/2021 – ZDU-1M) shall cease to be in force.

Article 323
(Entry into force)

This Act shall enter into force on the thirtieth day following its publication in the Official Gazette of the Republic of Slovenia."

The Act Amending the State Administration Act – ZDU-1O (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No 18/23) contains the following final provision:

“Article 59

This Act shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia."