

Electronic Communications Act no. 70/2022

Chapter I Scope and objectives

■ Article 1 *Scope*

This Act shall apply to electronic communications, electronic communications service and electronic communications networks.

Electronic communications which consist exclusively of messages or transmissions within the premises of a household, undertaking or institution, such as in hospitals, guesthouses, schools and factories, shall not fall within the scope of this Act.

This Act shall not apply to content broadcast on electronic communications networks.

■ Article 2 *Objectives*

The objective of this Act is to ensure accessible, fast, economic, efficient and secure electronic communications in this country. The objective is furthermore to increase protection and choices for consumers and to support efficient investment and innovation in the electronic communications market.

The Icelandic state shall ensure as far as possible that all Icelanders and undertakings have access to electronic communications and high-speed networks, including fixed and wireless networks, as described in further detail in this Act.

Chapter II Scope of electronic communications

■ Article 3 *Administration of electronic communications*

The minister is ultimately responsible for electronic affairs.

■ Article 4 *Supervision of electronic communications*

The Electronic Communications Office of Iceland (ECOI) shall supervise electronic communications within the jurisdiction of the Icelandic state, including the use of the electronic communications radio spectrum, and shall supervise the enforcement of this Act.

Chapter III Definitions

■ Article 5 *Definitions*

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

1 Access: To make facilities or service available to another undertaking, pursuant to specified conditions, whether this is exclusive access or otherwise, for the purpose of providing electronic communications service, including when such availability is used to deliver service in the information society or for the transmission of content. The concept also covers among other things:

- a. access to individual network elements and associated facilities that can involve interconnection of equipment, whether fixed or wireless, and this particularly covers access to local loops and facilities and service that are necessary to provide service over local loops;
- b. access to physical infrastructure, including buildings, ducts and masts;
- c. access to appropriate software systems, including operational support systems, information systems or databases for pre-orders, procurement, orders, requests for maintenance and repairs and for billing;
- d. access to number translation or systems offering equivalent functionality;
- e. access to fixed networks and mobile networks, particularly for roaming service;
- f. access to conditional access systems for digital television services and
- g. access to virtual network services.

- 2 Access point: Physical location within or outside the building, which is accessible to electronic communications undertakings where connection of high capacity network to inhouse wiring is made accessible.
- 3 Very high-capacity network: An electronic communications network which consists wholly of optical-fibre elements, at least to the distribution point at the service location, or an electronic communications network with similar performance under usual peak-time conditions, in terms of available downlink and uplink bandwidth, resilience, error-related parameters, latency and latency fluctuations. 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.
- 4 General authorisation: A legal framework established ensuring rights for the provision of electronic communications network or services and to prescribe obligations that are specific for electronic communications, that can apply to all or specific types of electronic communications networks and electronic communications services in accordance with this Act.
- 5 Public electronic communications network: An electronic communications network used wholly or mainly for the provision of publicly available electronic communications services which support the transfer of information between network termination points.
- 6 Public electronic communications service: Electronic communications service available to individuals and legal entities.
- 7 Universal service: Defined electronic communications elements of a specified minimum quality which are available to users at an affordable price in accordance with the provisions of this Act.
- 8 Physical infrastructure: Physical infrastructure as defined in law on measures for efficient development of high-speed electronic communications networks.
- 9 Terminal equipment: Equipment directly or indirectly connected to the interface of a public electronic communications network to send, process or receive information. In the cases of both direct and indirect connections, this can be wired or wireless. A connection is considered indirect if a device is placed between the terminal equipment and the network interface. Terminal equipment also refers to equipment for satellite earth stations.
- 10 End-user: A user not providing public electronic communications network or publicly available electronic communications services.
- 11 Mobile network: A wireless network where a terminal equipment of an end-user is connected by wireless connection to an electronic communications stations. Electronic communications service over a mobile network remains unimpaired when the connection is moved from one electronic communications station to another, which means that a mobile network can serve users who are on the move.
- 12 Fixed network: An electronic communications network where electronic communications travel over threads in electronic communication cables.
- 13 Electronic communications undertaking: An undertaking in the understanding of article 4 of the Competition Act, which has notified ECOI about operating electronic communications service or an electronic communications network.
- 14 Electronic communications undertaking with significant market power: An electronic communications undertaking which has been defined by the ECOI as having significant market power on the basis of market analysis.
- 15 Electronic communications network: Transmission systems, whether or not based on centralised infrastructure or has a centralised administration system. An electronic communications network can as applicable, be fitted with switching or router equipment along with other resources, including network elements that are not active, which permit the

conveyance of signals by wire, radio or other electromagnetic means. In electronic communications networks, electronic communications can travel over fixed networks or wireless networks, such as mobile networks or by satellite, and also through electricity cable systems to the extent that they are used for the purpose of transmitting signals. Electronic communications networks also include networks for radio and television broadcasting, and cable television networks,, irrespective of the type of information conveyed.

16 Electronic communications infrastructure: Electronic communications network, physical infrastructure or any kind of device, device components, wiring, equipment or similar objects which are especially intended to establish or operate electronic communications, whether for purposes of transmission or reception.

17 Electronic communications service: Service normally provided for remuneration, via electronic communications network. Service excluded from this definition is content sent over an electronic communications network and is subject to treatment, e.g. editing. Electronic communications service covers the following:

- a. internet access service in the understanding of this Act;
- b. Interpersonal communications service between individuals in the understanding of this Act and
- c. 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.

18 Electronic communication service between individuals: Service normally provided for remuneration that enables direct, interpersonal and interactive exchange of information via electronic communications network between a finite number of persons. The persons initiating or participating in the electronic communication, determine its recipients are. This does not include services which enable interpersonal and interactive electronic communication merely as a minor ancillary feature that is intrinsically linked to another service.

19 Number-independent interpersonal communication service: Interpersonal electronic communications service which does not connect with publicly assigned numbering resources in national or international numbering plans, or does not enable communication with such numbers.

20 Electronic communications service between individuals which is related to numbers: Interpersonal electronic communications service, which connects with publicly assigned numbering resources, i.e. number or numbers in national or international numbering plans, or which enables communication with such numbers.

21 Electronic communications: Any type of transmission and receipt of symbols, signals, scripts, images and sounds, or any sort of communication through cable, by wireless distribution or by other electromagnetic means.

22 Local loop: The physical path used by electronic communications signals connecting the network termination point to a distribution frame or equivalent facility in the fixed public electronic communications network.

23 Application programming interface: A software interface, which is made available by a broadcaster or service provider for the purpose of connecting equipment for digital television and radio content distribution.

24 In-house wiring: Physical infrastructure or equipment, including jointly owned elements, that is located with the end user and is intended to host a fixed line and/or wireless local network, where such a network can provide electronic communications service and connect the access point of a building to a network termination point.

25 In-house wiring for connection to high-speed network: In-house wiring intended to host elements in a high-speed network or to facilitate their delivery.

26 Cabling: Electronic communications cabling, such as ducts, threads and cables.

27 Critical infrastructure: Critical infrastructure pursuant to the legislation on security of network and information systems for critical infrastructure.

28 Network and information systems: Network and information systems pursuant to the legislation on security of network and information systems for critical infrastructure.

29 Network access service: Public electronic communications service that provides access to a network, and thus with a connection to almost all endpoints of the system, regardless of their network technology and of the terminal equipment being used.

30 Network termination point: The physical point at which an end-user is provided with access to a public electronic communications network. In the case of a network involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to an end-user's number or name.

31 Network element: Part of an electronic communications network, such as wires, routers, switches, electronic communications equipment, terminal equipment and software.

32 Cyber Surveillance Team: A cyber surveillance team, pursuant to the Act on ECOI.

33 Emergency services: Service recognised as such by the authorities, that provides immediate and rapid assistance in situations where there is a direct risk to life or limb of individuals, to public health or safety, to private or public property, or to the environment, in accordance with national law.

34 Consumer: An individual who uses or requests a public electronic communications service for purposes which are outside his or her trade, business or profession.

35 User: A natural or legal person using or requesting a publicly available electronic communications service.

36 Usable network access service: Functionality, quality and technical attributes that network access service shall have as a minimum for service to be useful for users in daily life.

37 Numbers and codes: A series of symbols used to identify individual users in electronic communications networks:

38 Non-geographic numbers: Numbers from a national numbering plan that is not a geographic number, such as mobile, freephone and premium-rate numbers.

39 Roaming service: Telephony service, message service and other data transfer services in a mobile network, which originates or terminates with a customer who does not have a commercial relationship with the operator of the relevant mobile network that his terminal equipment connects to in the instance in question.

40 Operator: A legal person providing or authorised to provide a public electronic communications network or associated facility.

41 Co-location: Access to the space and technical services needed to accommodate an access requester's equipment and connect it without difficulty.

42 Harmonised use of radio spectrum: 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 the European Parliament and Council Decision No 676/2002/EC.

43 Interconnection: A specific type of access which operators of public electronic communications networks agree to implement with physical and logical linking of public electronic communications networks enabling users to communicate with other users of the same or another undertaking or gain access to services provided by another electronic communications undertaking, where such service is provided by the parties in question or by other parties that have access to the network.

44 Telephony service: General telephony service which enables origination or receiving, directly or indirectly, national telephone calls and/or international telephone calls with a number or numbers from the national or international numbering plan.

- 45 Telephone call: A connection established by means of a publicly available interpersonal communications service allowing two-way voice communication.
- 46 Harmful interference: Interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with national law or to rules at an international level or in the EEA.
- 47 Conditional access system: Any technical measure, authentication system and/or arrangement whereby access to a protected radio or television broadcasting service is made conditional upon subscription or another form of prior individual authorisation in each instance.
- 48 Radio spectrum allocation: Designation of a given spectrum band for use by one or more types of radio communications services as applicable, where appropriate, under specified conditions.
- 49 Location information: Location information in a public mobile network is processed data that derives from network infrastructure or from handsets, indicating the geographic position of the end-user's mobile terminal equipment, while on the other hand, in a public fixed network it is the data about the physical address of the network termination point.
- 50 Cable: An electronic communications cable which contains one or more threads which are used for electronic communications. An optical-fibre cable is an electronic communications cable that solely contains optical-fibre.
- 51 Geographic numbers: A number from the national numbering plan where part of its digit structure contain geographic significance used for routing calls to the physical location of the network termination point.
- 52 Associated facilities: Associated services, physical infrastructure and other facilities are elements associated with an electronic communications networks or electronic communications service, which enable or support the provision of service via that network or service, or have the potential to do so. Such facilities can be composed of buildings or entries to buildings, building wiring, antennae, towers and other supporting structures, ducts, conduits, masts, manholes and cabinets.
- 53 Associated service: 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 or has the potential to do this. Such service can among other things, constitute number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence service.
- 54 Shared use of radio spectrum: Access by two or more users to use the same radio spectrum bands under a defined sharing arrangement, authorised on the basis of a general authorisation, individual rights of use for radio spectrum or a combination thereof, including regulatory approaches such as licensed shared access aiming to facilitate the shared use of radio spectrum band, subject to binding agreement of all parties involved, in accordance with sharing rules as included in their rights of use for radio spectrum, in order to guarantee to all users predictable and reliable sharing arrangement, and without prejudice to the application of competition law.
- 55 Premium-rate charge: A fee for value-added service which is higher than the general telephony call charge;
- 56 Small-area wireless access point: Low-power wireless network access equipment of a 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 a 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.

57 Wireless electronic communications equipment: Electronic equipment which has the purpose of transmitting or receiving high frequency waves for wireless electronic communications or location finding, or electronic equipment to which additional equipment must be added, such as an antenna, for it to be able to transmit or receive high frequency waves for wireless telecommunications or location finding.

58 Wireless network: Wireless network where electronic communications do not pass through threads, but rather for example, with radio waves in the air.

59 Radio local area network: Low-power wireless access system, operating within a small range, which uses harmonised spectrum bands with a low risk of interference with other such systems used by other users.

60 Thread: Insulated material, for example made of copper, glass or plastic, used to transmit electronic signals or optic signals for electronic communications. A thread that carries optic signals is called optical-fibre. Each thread is part of a specific fixed network.

61 Security of electronic communications networks and electronic communications service: The ability of electronic communications networks and electronic communications service to resist, at a given level of confidence, any action that compromises the availability, authenticity, integrity or confidentiality of those networks and services, of stored or transmitted or processed data, or the related services offered by, or accessible via, those electronic communications network or service.

62 Security incident: Any event having or could have an adverse effect on the security of electronic communications networks and electronic communications services.

Chapter IV Authorisation for electronic communications operations

■ Article 6 *General Authorisation*

Electronic communications undertakings have general authorisation to provide electronic communications service and/or offer electronic communications networks. This authorisation includes legal entities established within the European Economic Area (EEA) and, in addition, member states of the World Trade Organisation (WTO), as provided for by the minister in a regulation.

An electronic communications undertaking shall, prior to commencing operations, notify ECOI about planned electronic communications service or operation of an electronic communications network. Information shall be provided, that is necessary for registration of the electronic communications undertaking and of its operations. The notification shall provide information on the following:

- a. name of electronic communications undertaking;
- b. The electronic communications undertaking legal status, form and registration number, ID number, or comparable information;
- c. address of main establishment in the EEA and of secondary branches/operational units, as applicable;
- d. web address;
- e. contact and contact information;
- f. short description of service that the intention is to provide and the planned offer of electronic communications network;
- g. states in the EEA covered by the service, and
- h. planned date for commencement of operations;

Electronic communications undertakings that only provide number-independent interpersonal communications services, are exempt from the obligation to notify pursuant to paragraph 2;

ECOI shall maintain a register of all electronic communications undertakings which have given notification that they will operate on the basis of a general authorisation. At the request of an electronic communications undertaking, ECOI must, within one week of receiving a request, issue a confirmation that the undertaking has sent in a notification for registration. ECOI is authorised to prescribe more detailed rules on the template for notifications pursuant to paragraph 2 and for confirmation pursuant to paragraph 4.

■ *Article 7 Minimum rights included in general authorisation*

Electronic communications undertakings that have general authorisation pursuant to article 6, have the right to operate an electronic communications network or electronic communications service and to use the electronic communications radio spectrum in accordance with this Act. They have the right to a process on their applications for necessary rights in accordance with article 34 and on necessary rights for use of the numbering resources pursuant to article 21. General authorisation entitles electronic communications undertakings to reach agreement on interconnection and, where applicable, gain access or interconnection to other electronic communications undertakings.

General authorisation gives the right to be designated to provide universal service in accordance with this Act.

ECOI issues regulations on general authorisation to operate electronic communications networks and electronic communications service complementary to the rights and obligations prescribed in this article, and in articles 8 and 9.

■ *Article 8 Requirements for general authorisation*

General authorisation to operate electronic communications networks and service shall be bound by the following conditions:

- a. payment of operations fee in accordance with the provisions of the Act on ECOI;
- b. fulfilling the requirements of Chapter XIII which relates to personal data protection in electronic communications;
- c. providing information for notifications in accordance with article 6 and with other provisions of law;
- d. that authorised authorities are able to intercept telephone calls and gather other data in accordance with provisions of law;
- e. that the provisions of Chapter XIV on civil protection warning systems, emergency communications and location of emergency voice communications service calls are fulfilled;
- f. that access conditions other than those prescribed in this chapter and that apply to electronic communications undertakings, are fulfilled;
- g. that measures are followed that are intended to ensure compliance with standards or instructions specified in article 24, and
- h. that the obligations for transparency and provision of information pursuant to this Act that aim to ensure end-to-end connections in public electronic communications networks, are fulfilled.

■ *Article 9 Special conditions*

In addition to conditions pursuant to article 8, electronic communications undertakings that operate electronic communications networks are bound by the following conditions, as applicable:

- a. interconnection of networks shall be in accordance with this Act;
- b. transmission obligations pursuant to the Media Act shall be fulfilled with respect to electronic communications networks that are used for audio and visual content to the public;
- c. requirements according to this Act, for measures to protect public health against electromagnetic fields resulting from electronic communications networks shall be fulfilled;

- d. conditions on maintenance of the integrity of public electronic communications networks pursuant to this Act shall be fulfilled, including with respect to prevention of electromagnetic interference between electronic communications networks and service;
- e. requirements pursuant to this Act that are intended to support security of public electronic communications networks with respect to unauthorised access, shall be fulfilled;
- f. conditions for use of the electronic communications radio spectrum, pursuant to this Act shall be fulfilled;
- g. service shall fulfil the requirements of this Act with respect to operational compatibility;
- h. access shall be ensured for end users to numbers from the national number plan, to the public international toll free number system and, where technically and economically efficient, from the number plan of other member states, in accordance with the provisions of this Act;
- i. rules on consumer protection, pursuant to this Act shall be fulfilled, and
- j. limitations with respect to sending unlawful material pursuant to legislation on electronic transactions and other electronic service shall be respected, as shall limitations with respect to sending harmful material pursuant to the provisions of the media act.

Electronic communications undertakings that only provide number-independent interpersonal communications services, are exempt from the conditions pursuant to items g-j in paragraph 1.

■ Article 10 *Separation of concession activities from electronic communications activities*

Electronic communications undertakings or groups of undertakings operating public communications networks or publicly available electronic communications services, which enjoy special or exclusive rights in sectors other than electronic communications, must keep their electronic communications activities financially separate from other activities as if they were two separate undertakings. Care shall also be taken to ensure that competitive operations are not subsidised by activities enjoying exclusive rights or protected activities. This provision shall apply without regard to an undertaking's market power.

■ Article 11 *Changes to rights*

Under special circumstances, for instance when legislation is amended, ECOI may alter the conditions in general authorisations and conditions for allocation of rights.

Interested parties, including users, must be informed with the relevant grounds of such changes with reasonable notice, which may not, however, be less than 30 days.

If the duration for rights to use frequencies or numbers is extended, ECOI is authorised to alter conditions for rights or add conditions.

Chapter V Organisation of radio spectrum and allocation of frequencies

■ Article 12 *Organisation of radio spectrum*

ECOI shall, in accordance with international agreements to which Iceland is a party, support efficient and economic use of the radio spectrum and that harmful interference to reception of wireless signals be kept to a minimum.

ECOI organises use of the radio spectrum having taken into account decisions on harmonised use of frequencies that apply for the EEA, including for harmonised timing of allocation of frequency rights. ECOI is authorised to deviate from decisions on harmonised use of frequencies where such use does not suit Icelandic circumstances and does not have an inhibiting or damaging, disrupting impact on harmonisation of the use of the radio spectrum in other states in the EEA. Such a decision shall be supported by grounds and notified to the EFTA Surveillance Authority and shall be subject to regular review.

Having taken into account those decisions on harmonised use of frequencies that apply in the EEA, ECOI makes a decision on use of frequencies that is authorised on the basis of general

authorisation and on which use of frequencies are allocated on the grounds of individual rights.

ECOI shall arrange the use of various bands of the radio spectrum, register such arrangement, publish this arrangement and provide information on the frequency arrangement as necessary. The Authority can decide that decisions of international institutions, to which Iceland is a party that relate to organisation and use of the radio spectrum, be binding in this country and these decisions shall be referred to in the frequency arrangement published by the Administration.

Allocation of frequency rights shall be based on criteria that are objective, transparent, that encourage competition and are moderate and non-discriminatory. Such rights shall normally be bound by conditions of technical neutrality and service, unless contradicted by objective reasons.

The minister shall issue a regulation on the organisation and allocation of frequencies which shall contain among other things, detailed rules on organisation of the radio spectrum and on its supervision by the ECOI; the conditions that can be imposed for frequency rights, and on other issues that relate to more detailed specification of rights and obligations of frequency holders, and also membership of the European Radio Spectrum Policy Group.

■ Article 13 *Rights to use frequencies*

Electronic communications frequencies within the Icelandic jurisdiction are resources controlled by the Icelandic state. Allocation of frequencies constitutes temporary authority for conditional use which neither leads to direct ownership nor to permanent rights to use and to disposal.

When rights to use specific frequencies are not covered by paragraph 1 of article 7, see also item f of paragraph 1 of article 9, ECOI shall, having received an application, allocate such rights to electronic communications undertakings. Rights to use frequencies may also be allocated to radio broadcasters following open, transparent and non-discriminatory procedures, if such allocation serves the purpose of the authorities. Rights to use frequencies may also be allocated to parties operating wireless electronic communications equipment for their own purposes. Rights provided for in this article shall be linked to one name and may not be transferred.

Permanent transfer and loan or lease of frequency rights to another electronic communications undertaking is authorised where such a measure does not have a negative impact on competition pursuant to article 14. ECOI shall be notified about such a measure, with at least 30 days notice before coming into effect, and ECOI shall endorse permanent transfer, loan or lease of frequency rights if the following conditions are fulfilled:

- a. the recipient of the rights is registered by the ECOI pursuant to article 6;
- b. notification is accompanied by confirmation from the recipient of the rights that he guarantees to fulfil the conditions and to respect the obligations of a frequency rights holder as prescribed in the frequency licences, and
- c. ECOI considers it likely that the recipient of the rights can meet obligations prescribed in the frequency licence.

A decision to deny transfer loan or lease of frequency rights shall be made within three months from receipt of a notification pursuant to paragraph 3.

If an undertaking fails to meet the obligation to notify pursuant to paragraph 3, ECOI can take the matter for consideration and decision when the Authority is made aware of the transfer, loan or lease in question.

ECOI shall publish information on all rights for use of frequencies and on their right holders, including those frequency rights that have been transferred, loaned or leased. Frequency rights allocated for own use may be exempt from publication, which also applies to frequency rights

where secrecy is deemed normal because of important security, financial or business interests of the rights holder.

■ Article 14 *Impact of frequency rights on conditions for competition*

The issue of frequency rights shall support active competition on the market and prevent the holding of such rights from creating an obstacle to competition. In cases of allocation, amendment, renewal, transfer, loan or lease of frequency rights, ECOI is authorised to:

- a. limit the size of the frequency band of which rights are allocated to undertakings or, when circumstances give sufficient reason, impose conditions on such usage rights, such as that wholesale access is provided, or national, or regional roaming service in specific frequency bands or in frequency bands with similar attributes;
- b. to set aside, if this is appropriate and justifiable in the light of specific circumstances in the national market, a specific part of the electronic communications radio spectrum or frequency bands for new parties;
- c. reject the provision of new usage rights from the electronic communications radio spectrum or authorise new use of the electronic communications spectrum in specific frequency bands, or impose conditions on provision of new usage rights in order to prevent distortion of competition with allocation, transfer, loan, lease or accumulation of usage rights;
- d. impose conditions that ban transfer of usage rights of the electronic communications radio spectrum that is not subject to monitoring of mergers on the basis of competition law, or to impose conditions on such transfer;
- e. amend existing rights in accordance with this Act when it is necessary to repair distortion of competition that has resulted from transfer or accumulation of usage rights of the electronic communications radio spectrum.

■ Article 15 *Limits in allocation of rights*

ECOI may limit the number of allocations of rights to use specific frequencies if such is necessary to:

- a. ensure efficient use of frequencies, including by taking into account the conditions that apply to use of frequencies and the price that is paid for them;
- b. support distribution of electronic communications service;
- c. ensure specific quality of service, or
- d. support innovation and market development.

If ECOI should request peer-review of the European Radio Spectrum Policy Group, the Administration shall furthermore support by grounds that the following conditions are fulfilled. Limitation of allocations of frequency rights must then:

- a. support development of the internal market, of cross-border service operations and competition, and maximise benefits for consumers, and
- b. ensure stable and foreseeable investment conditions for current and potential users of the radio spectrum for building electronic communications service that uses the radio spectrum.

If the European Radio Spectrum Policy Group issues an opinion on a planned ECOI decision for limitation of allocations of frequency rights, the Authority shall take this into account, to the extent possible.

All interested parties, including users, shall be given the opportunity to express their views on limits to the rights before ECOI makes its decision, which shall be published together with its grounds.

No later than the beginning of open consultation with stakeholders and users on a planned decision to limit frequency rights, and on choice of method for allocation, ECOI shall notify the decision to the European Radio Spectrum Policy Group on electronic communications radio spectrum and furthermore specify whether and when peer review is requested from the group. In the notification or in the following grounds, ECOI shall provide grounds for how the planned limitations fulfil the conditions specified in paragraphs 1 and 2.

When making decisions on limiting the number of licences or on extending the duration of licences for frequency bands, where the number of licences is limited, emphasis should be placed on users' interests and on encouraging competition and incentives, and investment risks shall also be taken into account. The method used to assign rights shall be published and applications invited by advertisement. The allocation of limited licences shall be conducted in an open and objective manner, having taken into account considerations on non-discrimination and proportionality.

ECOI shall regularly review the limits which have been set, for instance, at the request of electronic communications undertakings concerned. If further rights to use frequencies can be assigned, an advertisement shall invite applications.

■ *Article 16 Conditions for use of frequencies pursuant to a special frequency authorisation*
In accordance with rules that apply to conditions set for use of frequencies pursuant to general authorisation, see article 7, ECOI is furthermore authorised to making the frequency rights, according to special frequency allocation, contingent on conditions that support good, efficient and targeted use of the radio spectrum. The conditions shall specify appropriate elements, including notice to use the usage rights, which give ECOI authority to withdraw usage rights or adopt other measures if conditions are not met. The main appropriate conditions are:

- a. obligation to provide service or to use specific technology within the limits of paragraph 5 of article 12, including requirements for distribution and quality of service, as applicable;
- b. active and efficient use of the radio spectrum in accordance with this Act;
- c. that equipment and operations of an electronic communications undertaking minimise harmful interference and electromagnetic radiation to which the public may be exposed;
- d. maximum duration in accordance with article 18, with a reservation for any kind of amendment to national plans for division of frequencies;
- e. permanent transfer, loan or lease of rights and conditions for such transfer in accordance with this Act;
- f. payment of administration fee in accordance with the provisions of the Act on ECOI;
- g. any kind of obligation that an undertaking which has received usage rights, has undertaken, within the framework of the procedure of allocating or renewing frequency rights before the right was allocated, or, as applicable, pursuant to an application for usage rights;
- h. obligations for sharing frequency band or sharing the radio spectrum or to authorise access for other users in specified regions or across the whole country to the radio spectrum;
- i. obligations pursuant to appropriate international agreements that relate to the use of the radio spectrum, or
- j. obligations that specifically relate to the experimental use of electronic communications frequencies.

For the purposes of supporting objectives for distribution of electronic communications service, ECOI can also make frequency rights contingent on the following conditions:

- a. sharing of passive or active infrastructure that relies on the radio spectrum;
- b. commercial agreement on access to roaming, or
- c. joint roll-out of infrastructure to offer network or service that uses the radio spectrum.

ECOI shall conduct open consultation with stakeholders on the content and elaboration of conditions for use of frequency rights when the intention is to make the use of frequencies contingent on conditions pursuant to this article.

■ *Article 17 Procedure for assigning of rights to use frequencies and numbers*

ECOI shall decide on rights to use frequencies and numbers as soon as possible after receipt of an application. A decision shall be available within six weeks if frequencies are intended for specific use in the frequency structure.

An obligation for the right to use frequencies shall be processed without delay if it only concerns an insignificant part of defined frequency band and thus has little impact on the offer of frequency and does not have a negative impact on competition.

If ECOI receives an application for frequencies for providing electronic communications service or for audio and visual content distribution that is not covered by paragraph 2, the Administration shall advertise to determine potential interest from other parties when allocating from the frequency band in question. If interest should come to light in allocation from the relevant frequency band, it is authorised to decide that allocation will be subject to a call for tenders or auction pursuant to paragraph 6 or 7, as applicable.

Applicants for limited rights may be required to submit satisfactory information on their ownership, financial situation and proposed activities, as well as other information deemed necessary for assessment of their applications. ECOI is authorised to set special competence conditions for frequency applicants to receive allocations, such as financial capability for development and operation of an electronic communications network which is intended to use the frequencies for which an application has been submitted, technical capacity and experience of the applicant in operating electronic communications service and that the applicant has not committed a serious or repeated breach of the provisions of these laws or has significantly defaulted on the conditions for allocation of frequency rights.

Limitations may be applied to allocation of frequencies for radio, based on cultural considerations, such as to support general cultural development and to support the Icelandic language. One could also impose limitations on allocation of frequencies if an allocation can lead to a hindrance to competition on the media market.

Auctions may be used when allocating rights to use frequencies. Auctions shall as a rule, be open but it is authorised to have a closed auction subsequent to open pre-selection. ECOI is responsible for carrying out auctions and decides the conditions in the tender documents.

Tender documents shall contain all information necessary for a bidder to be able to tender for rights. The tender documents shall among other things contain information about minimum service area, delineation of the frequency band being offered for tender, how many rights are being auctioned, the duration of the rights, whether the rights will be tied to specific service or technology, competence of bidders, other conditions regarding the auction itself and information on use and usage in the frequency band being auctioned. Clear information shall be provided on evaluation of tenders. It is unauthorised to submit variant tenders unless this is specifically authorised in the tender documents. It is authorised to limit the number of tenders from each bidder or related parties and it is also authorised to limit participation of parties that already have rights on comparable frequency bands.

The minister may decide that allocation shall take place following an auction. In a decision on auction, it should be stated whether rights shall be subject to conditions that are to achieve societal objectives, for example, that a specific service is offered in specific coverage areas. ECOI decides the conditions for auctions in other respects. ECOI handles implementation of auctions and allocation of rights on completion of an auction. ECOI can delegate another competent party to implement specific parts of execution of an auction. The tender documents shall specify precisely the frequencies being auctioned, the duration of the rights, whether the rights will be limited to specific service or technology, the manner of payment, minimum requirements made to bidders, other conditions with respect to the auction itself and on use and usage in the frequency band being auctioned. It is among other things, authorised to prescribe in the conditions a participation fee which shall cover the cost of preparation and implementation of the auction. A minimum bid may be decided which shall not be higher than the equivalent of fifteen times the annual fee for the frequencies in question, as this is decided in the Act on ECOI. A discount may be decided on the minimum bid for frequency rights, for example in the case of a burdensome condition, such as for coverage or quality of service.

Parties may be dismissed from an auction and fined if a bid is not honoured or for a breach of auction terms and this can be up to the amount of a single annual fee for the rights being auctioned, or the difference between a bid which is not honoured, and the price received for the rights on completion of the auction. A reservation can be made that a guarantee is set for payment of bids and fines. It is authorised to limit the number of tenders from each bidder or related parties, and it is also authorised to limit participation of parties that already have rights on comparable frequency bands.

When allocating rights, ECOI is authorised to decide in advance the amount and arrangement for daily fines which are imposed on an electronic communications undertaking that does not fulfil the obligations that the rights prescribe. Daily fines pursuant to this provision can be up to ISK 500,000 per day.

If a decision is made on a call for tenders or auction for allocation of frequencies, the time limits for the procedure as provided for in paragraph 1 may be extended, but no longer than by eight months.

Case procedure for allocation of rights to use frequencies shall be prescribed in more detail in regulation set by the minister. The regulation shall among other things prescribe implementation and conditions for calls for tender and auctions, transfer of frequency rights and joint allocation procedure for frequency rights.

■ Article 18 *Duration and renewal of frequency rights*

ECOI decides a reasonable duration for frequency rights on the basis of objectives for coverage and quality of the electronic communications service that is aimed for with the allocation of frequency rights and burdensome conditions that may be tied to the frequency rights. When evaluating a reasonable duration for frequency rights, considerations on competition and efficient usage of the radio spectrum shall furthermore be taken into account. When deciding the duration of frequency rights in frequency bands that are subject to decisions on harmonised use of frequencies within the EEA, see paragraph 2 of article 12, there shall furthermore be foreseeability on disposal of the frequency rights for a period of 20 years. ECOI is however authorised to decide the duration of such frequency rights for a shorter period of time, but nevertheless for a minimum of 15 years. In such instances there shall be an option of possible extension of the duration of the frequency rights for five years or more on the basis of the conclusion of market evaluation of frequency usage pursuant to paragraph 5. Such market evaluation shall take place no later than two years prior to the end of the original duration for the frequency rights in question.

It is authorised to deviate from provisions on minimum duration of validity of frequency rights pursuant to paragraph 2, when the frequency rights are intended for:

- a. use in limited geographic areas where access to high-speed networks is far from adequate, or not in place;
- b. special short-term projects;
- c. experimental use;
- d. use in an electronic communications radio spectrum which can operate in parallel with wireless electronic communications service, or
- e. use of electronic communications radio spectrum other than prescribed by a harmonisation decision, having fulfilled the conditions of paragraph 2 of article 12.

Having received an application from a frequency rights holder, ECOI makes a decision on renewal of frequency rights on a harmonised electronic communications radio spectrum before the duration of the rights expires and no later than 12 months prior to that time, except in those instances where the possibility of renewal was eliminated on allocation. ECOI shall normally renew frequency authorisation for frequency rights holder if there are no reasonable grounds against this, such as a negative impact on competition on the electronic

communications market, or on the organisation and usage of the spectrum. When renewing frequency rights, ECOI can review conditions for use of the frequency in question, see provisions of article 16.

ECOI can in the first instance, five years before the decided expiry of the frequency rights, where the Authority considers there to be no reasonable grounds for extension, see paragraph 4, make an assessment of the impact that endorsement or denial of renewal of rights would have on the electronic communications market and on consumers. Having taken into account the shorter period of notice for making such a market evaluation, the same applies before a decision is made on whether the duration of the frequency rights should be extended for frequency rights that are contingent on a decision on harmonised frequency usage and that have been allocated for a shorter period than 20 years, pursuant to paragraph 2. Market evaluation of frequency usage shall be conducted subsequent to open consultation with parties to the market on the criteria to be applied. Among the issues to be taken into account in the evaluation, as applicable, are the following items:

- a. active and efficient use of the electronic communications radio spectrum in question;
- b. possible impact of use of frequency in serving the public needs;
- c. impact on competition status on the electronic communications market;
- d. international agreements and obligations regarding use of the frequency, and
- e. efficient use of the frequency with respect to market development and new technology.

Further details shall be provided on the reasons for possible denial of renewal of frequency rights, and on the content and implementation of market evaluation of use of frequency in a regulation on the organisation and allocation of frequencies.

Chapter VI Numbers and codes

■ Article 19 *Jurisdiction of numbers and codes*

Numbers and codes from the Icelandic number plan are a resource controlled by the Icelandic state. Allocation of numbers constitutes temporary authority for conditional use which neither leads to direct ownership nor to permanent rights to use and dispose. Numbers and codes are rights registered under a name and ID number and are only transferable according to conditions set by ECOI.

■ Article 20 *Number plan and codes*

ECOI shall maintain a number plan that may be used for any kind of electronic communications service, including number codes for networks, and shall ensure that number and code resources are always adequate and available to electronic communications undertakings on a non-discriminatory basis. ECOI takes measures that make it possible for end users to connect to numbers without geographical limits, regardless of an electronic communications undertaking's technology and equipment. Information on the numbering arrangements and all changes thereto must be made public.

ECOI supervises a common number database for number look up, and for number portability. The design of the number plan, such as registration of codes and marking of number ranges, possibilities for lookups and dissemination and the making of common procedures for number portability, is subject to endorsement by the ECOI.

ECOI shall provide rules for numbers, number ranges and codes which among other things, provide further details on:

- a. conditions that need to be fulfilled to receive a number allocation for electronic communications operations in this country;
- b. competence requirements for right holders, other than electronic communications undertakings, to receive allocation of numbers and conditions that apply to the use of such numbers;
- c. specification of service types of individual number ranges;

- d. specifications of service types of short numbers;
- e. specification of separate number ranges for electronic communications services between devices within the EEA, and conditions attached to such number allocations, including service portability;
- f. specification of national and regional numbers if required;
- g. transfer of number ranges and codes, and
- h. main rules on tariff and maximum price that can apply to specified number ranges for the purpose of ensuring consumer protection.

■ **Article 21** *Case procedure for the allocation of numbers and codes*

ECOI shall decide on rights to use numbers as soon as possible after receipt of an application. A decision shall be available within three weeks in the case of numbers assigned for specific purposes within the national numbering plan. Allocation of numbers is conducted according to rules of procedure that are objective, transparent, moderate and non-discriminatory. Applicants for rights may be required to submit satisfactory information on their ownership, financial situation and proposed activities, as well as other information deemed necessary for assessment of their applications. ECOI is authorised to set special competence conditions for number applicants to receive allocations, such as financial capability for development and operation of an electronic communications technical capacity and experience of the applicant in operating electronic communications service and that the applicant has not committed a serious or repeated breach of the provisions of these laws or has significantly defaulted on the conditions for allocation of number rights.

■ **Article 22** *Conditions for use of numbers*

ECOI may set the following conditions when allocating numbers:

- a. that the service for which the number shall be used be specified, including any kind of requirements related to provision of the service;
- b. that the offer of the service meets specified minimum criteria;
- c. that use of numbers is effective and efficient;
- d. that number portability is offered;
- e. that general public directory information is provided;
- f. that the duration of the rights shall be limited and subject to any changes in the national numbering plan;
- g. that the conditions for number allocation are binding for the recipients of the numbers in the event of transfer of rights;
- h. that the licensee pay usage fees;
- i. that obligations assumed in a selection process are fulfilled;
- j. that obligations under international agreements on use of numbers are taken into account, or
- k. that a licensee offer free number display to users of telephone services, in accordance with the provisions of the Act on personal protection and processing of personal data.

ECOI shall prescribe the arrangement for caller ID in a regulation.

■ **Article 23** *Measures to react to abuse of numbers and fraud*

Should the suspicion arise that a number is used fraudulently, ECOI can instruct an electronic communications undertaking in this country to close access to such a number and its interconnection traffic and furthermore to demand that the electronic communications undertaking freeze income and/or interconnection charges of such unlawful service and of other related service.

Chapter VII Electronic communications equipment

■ **Article 24** *Electronic communications equipment*

Equipment used in an electronic communications network shall as a rule comply with technical standards in force in the EEA. ECOI may, in special instances, prescribe the use of other standards or recommendations from the International Telecommunication Union. Technical characteristics of network termination points shall always be in accordance with standards.

The minister is authorised to prescribe on equipment in more detail in a regulation.

■ Article 25 *In-house wiring*

Electronic communications installations in buildings, including access point in an entrance facility, shall be the responsibility of the owner of the building. The location of access points and all installations in a building must accord with the building construction plans and/or be approved by the building owners. In apartment buildings, the access point and in-house wiring shall be protected from unauthorised access to the extent possible. An electronic communications undertaking shall be entitled to access the access point to connect to the buildings in-house wiring and wiring of the end user in question, regardless of whether or not this is in-house wiring that is ready for connection with a high-capacity network. ECOI shall adopt rules on the installation of access points and wiring for the purpose of protecting electronic communications and defining access rights for electronic communications undertakings.

An electronic communications undertaking has the right to connect its public electronic communications network to an access point at its own cost.

■ Article 26 *Essential requirements for wireless electronic communications equipment*

Wireless electronic communications equipment shall be such that:

- a. it protects health and safety of persons and of domestic animals and the protection of property;
- b. it is electromagnetically compatible;
- c. it effectively uses and supports effective use of radio spectrum to avoid harmful interference;

Wireless electronic communications equipment within specific categories or classes shall be so constructed that it complies with the following essential requirements:

- a. it interworks with accessories, particularly harmonised chargers;
- b. it interworks via networks with other wireless electronic communications equipment;
- c. it is possible to connect to an interface of the appropriate type on the common internal market of the EEA;
- d. it neither harms an electronic communications network or its functions, nor is such that network equipment is misused and thus causes unacceptable degradation of service;
- e. it incorporates safeguards to ensure that personal data and privacy of the user are protected;
- f. it is designed for certain features to ensure protection against fraud;
- g. it is designed for certain features to ensure access to emergency services;
- h. it is designed for certain features that facilitate its use by the disabled, and
- i. it is designed with the attribute that it will only accept software that has been shown to work for that equipment.

■ Article 27 *Wireless transmission equipment*

Transmission equipment for wireless electronic communications may only be possessed, installed or used with the permission of the ECOI. Wireless electronic communications equipment may, however, be operated without special authorisation if it is used solely for electronic communications services in a specific frequency band. ECOI shall issue licences to use wireless transmission equipment, the licence shall as a general rule have a specific validity period.. The licences may be made subject to conditions, for instance on the transmission power, location, bandwidth, distribution area and connection to public electronic communications networks. Licences shall be issued in the name of the equipment owner and

are not transferable. A licensee who sells wireless equipment, for which he/she has obtained a licence, or turns it over to another person permanently is responsible for notifying ECOI of the new owner. ECOI shall immediately take measures to suspend the operation of wireless transmitters, including broadcasting transmitters, for which no licence has been issued and which are not exempt from licensing obligations. ECOI inspectors undertaking such action may not be hindered, provided they have displayed their professional identification. A licence is not required for low-power equipment, which operates on harmonised frequency bands notified by the ECOI for use of such equipment. The minister is authorised to prescribe licensing for wireless equipment in more detail in a regulation.

Those selling wireless equipment that is subject to licensing, are obliged to notify ECOI about the purchaser of the equipment on a form and in a manner endorsed by the Authority.

Despite the licence requirement for wireless transmission equipment pursuant to paragraph 1, ECOI is authorised to decide that wireless transmission equipment for specific use shall only require notification to the Authority. Authorisation to use such equipment is then contingent on ECOI not raising any objections to the location of the equipment or its characteristics and functionality. It is prohibited to use transmission equipment that requires notification, where notification has not been made. ECOI can set rules for notification of wireless transmission equipment, including with regards to requirements made to frequency rights holders on the frequencies used by such equipment.

ECOI issues licences that authorise individuals to operate certain types of wireless transmission equipment. No special training is required of persons operating wireless transmission equipment except in cases where the equipment serves a security purpose or where transmission power exceeds 100 W. A licence may be issued for radio operators, which authorises the holder to operate electronic communications equipment on ships. The minister is authorised to prescribe issuing of licences to radio operators and qualification requirements in more detail in a regulation. ECOI may grant exemptions to foreigners dwelling in Iceland for a limited time, to operate wireless transmission equipment, provided they are authorised to do so in their home country. ECOI may adopt detailed rules on authorisations to individuals to operate wireless transmission equipment.

ECOI shall issue licences to radio amateurs after receiving applications from them and an opinion from amateurs' interest groups. The minister issues a regulation on activities of radio amateurs.

■ Article 28 *Electronic communications equipment in means of transportation*

Icelandic vessels, aircraft and other means of transportation shall be equipped with electronic communications equipment in accordance with international conventions and regulations in the field of electronic communications and transport.

Electronic communications equipment aboard foreign vessels, aircraft or other means of transportation which are in Icelandic territorial waters or air space may only be used in accordance with Icelandic law and regulations.

ECOI may prohibit the use of electronic communications equipment in foreign means of transport within Icelandic jurisdiction if such usage is deemed contrary to Icelandic regulations.

Notwithstanding the provisions of paragraph 2, ECOI may authorise the use of equipment approved for use internationally.

The minister shall set further regulations on electronic communications equipment and service in means of transport.

■ Article 29 *Restrictions on electronic communications due to interference or special measures*

The ECOI may have an electronic communications infrastructure or electronics sealed, in whole or in part, prohibit its use or, depending upon the circumstances, take it into custody

under seal, if the electronic communications infrastructure or electronics causes harmful interference to electronic communications or there is a danger of the security of electronic communications being impaired.

If there is reasonable suspicion that electronic equipment, devices, electrical installations, antennae or something of this nature may cause harmful interference in the operation of an electronic communications infrastructure, ECOI is authorised to instruct the owner of such items to take immediate remedial measures at his own cost, for example disassemble, move or remove the item in question that is causing harmful interference.

Should the owner fail to comply with the instructions for remedial measures, ECOI can have the work done at the owner's cost. A claim for costs for this reason, is enforceable pursuant to item 5 of paragraph 1 of article 1 of the Act governing enforcement no. 90/1989.

If necessary, the police are obliged to assist ECOI with the measures specified in paragraphs 1 and 2.

Having received a request from the State Prison and Probation Administration, ECOI can authorise interference of electronic communications within a specially delineated area for the implementation of security and penal detention. Before such authorisation is given, the Authority shall seek the opinion of electronic communications undertakings that provide electronic communications service in the relevant area.

■ Article 30 *Conformity of equipment*

It is unauthorised to market or offer on the market, wireless communications equipment, other than that which fulfils the essential requirements set out in article 26 and have the CE mark affixed in confirmation of conformity assessment.

It is prohibited to commence use of wireless electronic communications equipment unless its use is in accordance with its planned purpose, and that it fulfils essential requirements set out in article 26 and has the CE mark affixed in confirmation of conformity assessment.

The importing of terminal equipment by individuals or legal entities for their own use, or for another purpose, is considered marketing in this context.

A party that plans to market wireless electronic communications equipment in frequency bands where use has not been harmonised in the EEA, shall notify ECOI about this plan, with at least four weeks' notice. The Authority shall also be sent information about the characteristics of equipment, including its frequency band, space between channels, modulation method and high-frequency power. If ECOI considers there to be a risk that the equipment can interfere with other service on the relevant frequency band, the Authority can ban its sale and use.

■ Article 31 *Obligations of manufacturers, importers and distributors*

Manufacturers of wireless equipment shall ensure that the wireless electronic communications equipment that they market fulfil the essential requirements of article 26 and carry the CE mark in confirmation of conformity assessment. Manufacturers are responsible for conducting conformity assessment of wireless electronic communications equipment, whether this is done by an accredited conformity assessment office or, as applicable, by self-assessment. A manufacturer of wireless electronic communications equipment marketed in this country shall furthermore ensure that it comes complete with information for users in Icelandic about the intended use, main characteristics and safety. Information shall also be provided about the production number, name of manufacturer and his trading name or trademark. An EU declaration of conformity and technical details shall also be included with wireless electronic communications equipment. The minister can prescribe with a regulation that information pursuant to item 3 may be in English or a Scandinavian language other than Finnish, given that one can assume that the relevant group of users for the product will understand the foreign language, on the basis of their education, job or other specialization. The manufacture of wireless electronic communications equipment can appeal the conclusion of an accredited

conformity assessment office with regards to nonconformity of equipment, to the Appellate Committee for Electronic Communications and Postal Affairs.

It is only allowed to market wireless electronic communications equipment which fulfils the essential requirements set out in article 26 and has the CE mark affixed in confirmation of conformity assessment. Importers shall verify that the equipment comes complete with documentation that the manufacturer is obliged to supply pursuant to paragraph 1 and to a regulation set by the minister. Importers shall display their name and trading name on the wireless electronic communications equipment, or if this is not possible, on its packaging. When marketing wireless electronic communications equipment, distributors shall check that it complies with basic requirements and has the CE marking affixed in confirmation of this. Distributors are obliged to verify that the equipment comes complete with documentation that the manufacturer is obliged to supply pursuant to paragraph 1 and to a regulation set by the minister.

■ Article 32 *Surveillance of marketing of wireless electronic communications equipment and of its conformity*

ECOI is responsible for surveillance of marketing of electronic communications equipment and of parties involved in their marketing. At its own initiative or subsequent to a report from another party, the Authority shall process cases that relate to marketing of wireless electronic communication equipment and parties obligations in connection with such equipment. For this purpose, at any given time and without special authorisation, the Authority can demand access to sales outlets for such equipment.

If wireless electronic communications equipment which does not fulfil essential requirements of article 26 and regulation set by the minister, is marketed, imported or distributed, ECOI can demand that its sale and/or use be stopped immediately, the equipment withdrawn or seized, and that the parties involved take remedial measures. ECOI can also, subject to prior assessment, impose limitations on the marketing of wireless electronic communications equipment, on its importing or distribution for reasons related to public safety, public health or other public interests. The Authority can furthermore demand that the parties in question take remedial measures in such instances.

ECOI can demand that parties involved in marketing wireless electronic communications equipment, provide the Authority with itemised information and drawings of equipment that has been marketed or where the intention is to market such equipment. Such information shall be treated as confidential.

■ Article 33 *Regulation on surveillance of marketing and conformity of wireless electronic communications equipment*

The minister shall set a regulation on surveillance of marketing and conformity requirements made to wireless electronic communications equipment. The regulation shall among other things prescribe demands made for wireless electronic communications equipment, permission to market and use wireless electronic communications equipment, further obligations of manufacturers, importers and distributors of wireless electronic communications equipment, conformity of wireless electronic communications equipment, implementation of assessment of conformity and accredited conformity offices, CE markings, surveillance of marketing and cooperation of authorities.

Chapter VIII Access and interconnection

■ Article 34 *Access to land and buildings*

Where it is necessary for an electronic communications undertaking to locate electronic communications infrastructure in the land of another party, over that land or underground, over buildings or other structures on the land, on such structures, through such structures or under such structures, then the owner of such real estate is obliged to authorise this, given that

full compensation is paid for verifiable damage, temporary disturbance and impairment of possible use of the real estate, where this is the case. The owners or persons controlling such property or structures shall be consulted as to where the lines shall be laid and care shall be taken to ensure that the interests of the owner are impaired as little as possible. A dispute on planned installation of electronic communications infrastructure can be referred to ECOI, which, having received the views of parties to the case, shall rule on the location of such lines. Persons employed on electronic communications facilities shall take care to cause owners and residents no more inconvenience than is absolutely necessary.

The party responsible for the construction shall prepare a drawing of the planned project pursuant to paragraph 1 and present it to the relevant landowners and other stakeholders that could have a right to compulsory purchase compensation. In the case where information cannot be found of the dwellings of all owners, the party responsible for the construction shall have the authority to advertise the planned project in the Official Gazette, which is considered adequate advertisement vis-à-vis those that may have interests and whose information cannot be found in the registries of property or land.

Should the installation or maintenance of electronic communications infrastructure cause damage to land, structures or other property which cannot be rectified, or should the installation of electronic communications infrastructure result in restricting the usefulness of the property concerned, the owner of the electronic communications infrastructure shall compensate for the damage. Should no agreement be reached on the amount of compensation, a decision on compensation shall be made in accordance with legislation on expropriation. Should the execution of the project lead to permanent impairment of the rights of a landowner or another party having rights that could apply to expropriation compensation, a decision on compensation shall be made according to the law on expropriation.

When competent official bodies are processing an application for access to a property, this shall be conducted with simple, efficient and transparent case procedure which is accessible to all parties, without discrimination and without delay, and in all instances a decision shall be made within six months from the application, except in the case of expropriation.

If a public body has ownership or control of the electronic communications undertaking, the decision on access to a property pursuant to this provision shall be made in an institution or other unit that is separate from the operations related to ownership or control over electronic communications operations.

If an electronic communications undertaking needs to acquire land, lots or other property in connection with the installation or operation of public electronic communications infrastructure and agreement on purchase is not possible, the minister may, after having received the opinion of ECOI, authorise the expropriation of the property, in whole or in part, for recompense which shall be assessed pursuant to expropriation legislation. The approval of the minister for the expropriation shall be dependent upon, for instance, the expropriator providing guarantees for the payment of the estimated expropriation damages and the cost of their assessment. If expropriation damages cannot be obtained from the expropriator, the national treasury shall guarantee their payment.

■ Article 35 *Access to facilities*

If an operator has utilised the right to install facilities on, over or under the property of another party, or utilised the rights for expropriation or for use of a property, ECOI can issue an instruction on co-location or sharing of network elements or related facilities for the purpose of protecting the environment, public health or public security or for fulfilling objectives for municipal planning.

Before a decision is made on co-location or sharing, pursuant to paragraph 1, an open consultation shall be conducted on the case. The decision shall only cover specified areas

where such sharing is considered necessary to achieve the objectives prescribed in paragraph 1.

A decision pursuant to paragraph 1 can cover sharing of facilities or of assets, including land, buildings or access to buildings, building wiring, antennae, towers or other supporting constructions, ducts, masts, manholes and cabinets, or can constitute coordination of civil works .

ECOI is authorised to prescribed rules about cost sharing when sharing facilities, assets or projects pursuant to this article.

■ Article 36 *Rights to interconnection and access*

Electronic communications undertakings shall have the right to and are obliged to negotiate on interconnection to public electronic communications networks and electronic communications service with the objective of providing public electronic communications service and ensuring provision and interoperability of the service at any location in the EEA. Electronic communications undertakings in the EEA that request to make an agreement on access or interconnection, do not need to be registered with ECOI if they neither operate an electronic communications network nor electronic communications service in this country. Operators shall offer other undertakings access and interconnection with terms and conditions that harmonise with obligations imposed by ECOI pursuant to articles 38, 39 and 46.

In an interconnection agreement or an agreement on access to electronic communications networks, the control of electronic communications traffic that the parties reserve the right to operate in public electronic communications networks shall be prescribed, and the control shall fulfil conditions for necessity and proportionality. Such agreements on interconnection and access must be sent to ECOI no later than one week after their signing.

■ Article 37 *General role of ECOI with respect to access and interconnection*

ECOI shall endeavour to ensure access and interconnection and interoperability of electronic communications service in an adequate and efficient manner.

ECOI shall take measures to prevent restrictions which hinder undertakings in concluding agreements on interconnection with each other.

ECOI shall provide guidance and shall publish information on procedure with respect to agreements on access and interconnection.

■ Article 38 *Obligations without prior market analysis*

ECOI may impose obligations on electronic communications undertakings and on other parties as prescribed in more detail in this provision, without regard to whether the undertaking in question has been designated as having significant market power pursuant to article 45

ECOI can in instances based on grounds, and as considered necessary, impose the following obligations on electronic communications undertakings for the purpose of ensuring connections of end users:

- a. obligations on electronic communications undertakings that control access to end-users and that are considered necessary to ensure end-to-end connectivity, including an obligation for interconnection of electronic communications networks;
- b. obligations on the undertaking that controls end-user access, to make their service interoperable;
- c. obligations on the relevant providers of number-independent interpersonal communications and has significant level of coverage and user uptake, to make their service interoperable if end-to-end connectivity is threatened because of a lack of interoperability, and the conditions for exercising such a measure shall be prescribed in more detail in a regulation;
- d. obligation to provide access to application programming interface and electronic programme guides subject to justifiable conditions that are fair and without discrimination,

and for the purpose of ensuring end-user access to digital audio and visual content distributions and related additional service.

Upon reasonable request, ECOI can impose obligations on electronic communications undertakings or other owners of facilities to provide access to wiring and associated facilities inside buildings, or to the first concentration or distribution point if such point is located outside a building. The condition for imposing such obligations is that replication of such network elements is economically inefficient or physically impracticable. Obligations can constitute a duty to provide access to relevant network elements and related facilities, and duty for transparency and non-discrimination or relate to division of costs for access, having taken applicable risk factors into account.

Should ECOI come to the conclusion, having taken, as applicable, into account the obligations resulting from the relevant market analysis, that obligations imposed in accordance with paragraph 3 do not adequately address significant and non-transitory economic or physical barriers to the replication of network elements such that competition is inhibited, the Authority can prescribe that obligations on access are further reaching than the first concentration or distribution point, or to the point closest to the end users that can host an adequate number of connections for it to be economic to have access to the network at that location. If considered justifiable for technical or economic reasons, the obligations can cover active network elements and virtual access.

Obligations pursuant to paragraph 4 shall not be imposed on undertakings that fulfil the conditions of article 59 and offer other viable ways to reach end-users by providing undertakings with access to a very high capacity network with justifiable and fair conditions and conditions that are non-discriminatory, but it is however authorised if the electronic communications network in question is publicly funded. ECOI can exempt other undertakings from obligations pursuant to paragraph 4, if they offer access to a very high capacity network with fair and reasonable conditions and with conditions that are non-discriminatory.

Obligations pursuant to paragraph 4 shall not be exercised if they can inhibit deployment of new electronic communications networks.

ECOI can impose obligations on electronic communications undertakings that offer wireless electronic communications service to the effect that they provide access to passive network elements or offer regional roaming service if necessary to ensure regional access to wireless service and if there is no other similar and viable way available to provide end-users with access. Such obligations may only be imposed if it is clearly prescribed with respect to this possibility in the relevant radio spectrum licence with reference to insurmountable economic or physical barriers to market-driven coverage. In the event of a dispute on access, ECOI can among other things impose the obligation on an electronic communications undertaking that requests access, that it authorise spectrum sharing for the access provider in the region in question.

Obligations pursuant to this article shall be objective, transparent, proportional and non-discriminatory. The results of obligations shall be assessed and a decision shall be made on maintaining, withdrawing or amending them within five years from their coming into force. There shall be a consultation pursuant to article 24 and article 28 of the Act on ECOI no. 75/2021, before a decision is made or reviewed.

The imposition of obligations in this provision shall be prescribed in more detail in regulation.

■ Article 39 *Systems and equipment for audio and visual content transmission*

ECOI is authorised to prescribe rules on conditional access systems for digital audio and visual content transmission and related service, such as for application programming interfaces and electronic programme guides. In the rules there shall be provisions on access for media providers to such systems and service and to the technical characteristics that the systems and service shall fulfil.

Terminal equipment for digital visual content transmission, purchased or leased, shall comply with the requirements of interoperability in accordance with rules adopted by ECOI on:

- a. common scrambling algorithm and reception without charge, and
- b. interoperability of analogue and digital television sets.

It is prohibited to manufacture or market equipment or software that is designed or adapted to circumvent rights of service providers that provide service through conditional access systems.

■ Article 40 *Access to wireless local area networks*

It is permitted to provide access to public electronic communications networks through a wireless local area network, and for this purpose, to use a frequency band that is intended for such use, pursuant to general authorisation without specific frequency allocation.

If the provision of such access is not for commercial purposes, the provider of the service is neither bound by conditions of general authorisation pursuant to Chapter IV or by the provisions with respect to rights of end users and it is not obligatory to interconnect such networks, pursuant to article 36.

An electronic communications undertaking is allowed to provide access to its public electronic communications networks through a wireless local area network, which may be located in the premises of an end-user, with the reservation of compliance with the relevant conditions for general authorisation and that an end user's informed consent is received in advance.

An electronic communications undertaking is not authorised to unilaterally limit or prevent an end-user from:

- a. having access to wireless local area networks of his own choice, that is offered by a third party, or
- b. authorising other end users, reciprocal, or general access to its public electronic communications networks through a wireless local area network, including at the initiative of third party that gathers wireless local area networks from varying end-users and makes them accessible to the public.

An end-user is authorised to provide other end-users with access, reciprocal or otherwise, to its wireless local area networks, including at the initiative of third party that gathers wireless local area networks from varying end-users and makes them accessible to the public.

It is allowed to provide access to wireless local area networks on behalf of :

- a. public bodies or in public spaces near operational premises of public bodies, when the access is ancillary service to the public service provided at that location, and
- b. NGOs or public bodies that aggregate wireless local area networks of varying end-users and make them reciprocally or generally accessible, including wireless local area networks to which the public is provided access and in accordance with item a.

■ Article 41 *Deployment and operation of small area wireless access points*

A special licence from ECOI is not required for installation of a wireless access point that covers a small area. Use of frequencies in such transmissions can however, as applicable, require authorisation pursuant to Chapter V.

Public authorities shall provide access to physical infrastructure that they control and that are technically suitable for hosting small area wireless access points or that are necessary for connecting them to the core network, including lamp posts, road signs, traffic lights, advertising billboards and stops for public transport. Public authorities shall process all justifiable requests for access with fair, reasonable, transparent terms and conditions, without discrimination. A request for such access shall be processed within four months of its submission.

The minister shall issue a regulation that specifies physical and technical characteristics, such as maximum dimensions, weight and, as applicable, transmission power that small areawireless access points need to fulfil.

ECOI shall advocate that rules that apply to distribution of small area wireless access points are harmonised at a national level and are published on the Authority's website.

ECOI shall provide information to any party whatsoever that requests information on the rules that apply to the installation and operation of electronic communications transmitters covered by this article.

■ Article 42 *Communications between electronic communications undertakings*

Electronic communications undertakings which acquire information from other undertakings in negotiating contracts for access or interconnection or after concluding contracts shall use the information solely for the purpose it was provided and shall maintain confidentiality at all times. The information may not be delivered to other parties, including other divisions of the undertaking, its subsidiaries or partners.

Chapter IX Markets, market analyses and obligations

■ Article 43 *Definition of markets, etc.*

ECOI shall define markets for goods or services and geographical markets in accordance with the principles of competition law and obligations under the EEA Agreement. It shall consult with the Competition Authority as applicable.

When defining markets, ECOI shall to the extent possible, take the utmost account of recommendations issued by ESA on the relevant service markets and the ESA guidelines on market analysis and assessment of significant market power, having taken into account national circumstances, particularly with reference to geographical markets, where inter alia the nature of competition in infrastructure in specific areas is taken into account in accordance with the provisions of competition law. ECOI shall, where applicable, take into account the conclusions of a geographical survey made in accordance with article 11 of the Act on ECOI no. 75/2021.

The minister shall issue a regulation on more detailed definition of markets pursuant to this provision, on implementation of market analysis, pursuant to article 44, on criteria that shall be used when assessing whether an undertaking, individually or jointly, has significant market power pursuant to article 45 and on obligations and other rights and obligations pursuant to articles 46-61.

■ Article 44 *Implementation of market analysis*

ECOI shall, having regard to article 43, analyse relevant markets taking into consideration obligations under the EEA Agreement. Where appropriate, it shall co-operate with the Competition Authority in preparing such analysis. Analysis shall show whether conditions on the relevant market justify the imposition of obligations. Analysis shall take the utmost account of ESA guidelines on market analysis and on assessment of significant market power. Conditions on a market can be considered to justify the imposition of obligations pursuant to this chapter if all of the following criteria are fulfilled:

- a. high and non-transitory structural barriers to entry, or legal or regulatory barriers to entry are present;
- b. there is a market which does not tend not towards active competition within the relevant time horizon, having regard to the state of infrastructure-based competition and other sources of competition behind the barriers to entry, and
- c. competition law alone is not sufficient to adequately address the identified market failure(s).

Where ECOI conducts an analysis of a market that is included in the ESA guidelines on the relevant markets, it shall be considered that points a-c of paragraph 2 have been met, unless

ECOI determines that one or more of such criteria is not met in the specific national circumstances.

Where ECOI conducts the analysis required it shall consider developments of the relevant market from a forward-looking perspective in the absence of regulation imposed in that relevant market and taking into account all of the following elements:

- a. market developments affecting the likelihood of the relevant market tending towards active competition;
- b. all relevant competitive constraints at the wholesale and retail levels;
- c. other types of regulation or measures imposed and affecting the relevant market, or related retail market, and
- d. regulation imposed on other relevant markets on the basis of this article.

Where a market analysis on the basis of paragraphs 1-4 concludes that conditions on the relevant market do not justify the imposition of regulatory obligations, or where the conditions set out in paragraph 6 are not met, ECOI shall not impose or maintain any specific regulatory obligation in accordance with article 46. Where there already are sector specific obligations imposed on an electronic communications undertaking with significant market power on the relevant market, it shall be withdrawn.

Where ECOI determines, on the basis of market analysis conducted in accordance with paragraphs 1-4, that the imposition of regulatory obligations is justified, the Authority shall identify any undertakings which individually or jointly, have a significant market power in accordance with article 45, and shall impose, maintain or amend appropriate regulatory obligations in accordance with article 46, if the Authority considers that the outcome for end-users would not be effectively competitive in the absence of those obligations.

When conducting market analysis on the market at wholesale level, an assessment shall be made of the competitive status on related retail markets.

ECOI access shall conduct market analysis and shall have notified the corresponding draft measure to ESA, based on the analysis within the following time limits:

- a. within five years from the adoption of a previous measure on the relevant market, or within six years from ESA not having raised objections to a reasoned proposal from ECOI for a one year extension, where such a proposal must be submitted no later than four months prior to the end of the five year period;
- b. within three years from the adoption of a revised ESA recommendation on the relevant markets with respect to markets where market analysis has not previously been conducted, or
- c. within six months from the completion of a period of notice pursuant to items a or b in instances where ECOI has not completed or considers that it cannot complete analysis within the time limits and has requested assistance on completing the analysis from the Body of European Regulators for Electronic Communications.

■ Article 45 *Significant market power*

An undertaking shall be deemed to have significant market power if, either individually or jointly with others, it enjoys a position of economic strength on a certain market affording it the power to prevent effective competition and to operate to a appreciable extent independently of competitors, customers and consumers.

Where an undertaking either individually or jointly with others has significant market power on a specific market it may also be deemed to have significant market power on a related market where the links between the two markets allow the market power held on the specific market to be leveraged into the closely related market to strengthen market power on the other.

■ Article 46 *Regulatory obligations on electronic communications undertakings with significant market power*

ECOI is authorised to impose regulatory obligations on electronic communications undertakings in accordance with the provisions of this chapter.

Where, subsequent to market analysis, an electronic communications undertaking is designated as having significant market power on a specific market, ECOI shall, as appropriate, impose regulatory obligations pursuant to articles 47-52, 55, 59. The least intrusive way of addressing the problems identified in market analysis shall be chosen.

Where significant market power of an electronic communications undertaking on a specific market is considered to cause significant market power on a related market in accordance with paragraph 2 of article 45, only obligations for transparency, non-discrimination, separation of accountancy and price control can be imposed on the latter related markets.

If ECOI plans, in exceptional circumstances, to impose obligations on an undertaking with significant market power with respect to access or interconnection, other than those specified in articles 47-52, 55 and 59, the Authority shall seek endorsement from ESA.

Obligations imposed in accordance with this article shall be:

- a. in accordance with the nature of the problem identified in market analysis and shall, where appropriate take account of transnational demand;
- b. proportionate, having regard, where possible, to the , costs and benefits;
- c. justified, in light of the objectives laid down in this Act and
- d. imposed following consultation in accordance with articles 24 and 28 of the Act on ECOI no. 75/2021.

ECOI shall notify ESA about measures, to impose, amend or withdraw obligations on undertakings in accordance with procedure specified in article 28 of the Act on ECOI no. 75/2021.

ECOI shall monitor market development, such as in relation to commercial agreements, including agreements on co-investment, influencing competitive dynamics, with respect to obligations on the market. If those developments are not sufficiently important to require a new market analysis, ECOI shall assess without delay whether it is necessary to review the obligations imposed on undertakings designated as having significant market power and amend any previous decision, including by withdrawing obligations or imposing new obligations in order to ensure that such obligations continue to meet conditions set out in paragraph 5. Such amendments shall be imposed only after consultation in accordance with articles 24 and 28 of the Act on ECOI no. 75/2021.

Article 47 Access to civil engineering

ECOI can impose obligations on electronic communications undertakings with significant market power to meet reasonable requests for access to, and to use of, civil engineering, including buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, poles, masts, ducts and conduits, manholes and cabinets, where market analysis indicates that denial of access or access given under unreasonable terms and conditions for access, would hinder sustainable competition and would not be in the end-users' interest.

Obligations may be imposed on undertakings to provide access, pursuant to this article in accordance with market analysis, provided that the obligation is proportionate and necessary to meet the objectives of this Act.

■ *Article 48 Access to networks and service*

ECOI may impose obligations on electronic communications undertakings with significant market power to meet reasonable requests for access to, and use of, specific network elements and associated facilities, in situations where ECOI consider that denial of access or unreasonable terms and conditions having similar effect, would hinder the emergence of a sustainable competitive market at the retail level and would not be in the end-user's interest. Electronic communications undertakings may be required inter alia:

- a. to give access to specific network elements or associated facilities, including unbundled access to the local loop and sub loop;
- b. to give access to specific active or virtual network elements and services;
- c. to negotiate in good faith with undertakings requesting access;
- d. not to withdraw access to facilities already granted;
- e. to provide specific services on a wholesale basis for resale by third parties;
- f. to grant open access to technical interfaces, protocols or other technologies that are indispensable for the interoperability of services or virtual network services;
- g. to provide co-location or other forms of associated facilities sharing;
- h. to provide specific services needed to ensure compatibility of end-to-end services to users, or roaming on mobile networks;
- i. to provide access to operational support systems or similar software systems necessary to ensure competition in the provision of services,
- j. to interconnect networks or network facilities, or
- k. to provide access to associated services such as identity, location and presence service.

It is authorised to add conditions to obligations pursuant to this provision that relate to fairness, reasonableness and timeliness.

Before a decision is made on imposing obligations pursuant to paragraphs 1 and 2, an analysis shall be made of whether another forms of access to wholesale inputs, either on the same or on a related wholesale market, would be sufficient to address the identified competition problem with respect to:

- a. whether it is technically and economically viable to use or install competing facilities, in light of the rate of market development and the nature and type of interconnection or access involved, including the viability of other upstream access products, such as access to ducts;
- b. the expected technological evolution affecting network design and management;
- c. the need to ensure technology neutrality enabling the parties to design and manage their own networks;
- d. the feasibility of proving the access offered, in relation to the capacity available;
- e. 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 risks levels associated with, very high capacity networks;
- f. 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.
- g. where appropriate, any relevant intellectual property rights, and
- h. the provision of pan-European service.

Before a decision is made on applying this article, an assessment should be made of whether obligations on access to civil engineering, in accordance with article 47 could suffice as a proportionate measure to promote competition and the end-user's interest.

When imposing obligations on an undertaking to provide access in accordance with this article, it is authorised to lay down technical or operational conditions to be met by the provider and/or the beneficiaries of such access, where it is necessary to ensure normal operation of the network. Obligations to follow specific technical standards or specifications shall comply with the standards and specifications laid down in accordance with article 24.

■ Article 49 *Transparency*

ECOI can impose obligations of transparency on undertakings with significant market power, in relation to interconnection or access, requiring undertakings to make public specific information, such as accounting information, prices, technical specifications, network characteristics and expected developments thereof, as well as terms and conditions for supply and use, including any conditions altering access to or use of services and applications, among

other things with regard to migration from legacy electronic communications networks. ECOI may specify the precise information to be made accessible, the level of detail required and the manner of publication.

When an electronic communications undertaking is required to respect equivalence, ECOI can require it to publish a reference offer which shall be adequately broken down to ensure that an undertaking is not required to pay for facilities that are not necessary for the service requested. The offer shall include a description of offer of access and service, broken down according to the needs of the market, and related terms and conditions, including price. ECOI can prescribe amendments to reference offers.

ECOI is authorised to issue regulations that prescribe more detail on the contents of reference offers, having taken into account guidelines of the Body of European Regulators for Electronic Communications regarding minimum criteria for a reference offer.

■ Article 50 *Non-discrimination*

ECOI may impose an obligation of non-discrimination on electronic communications undertakings with significant market power in relation to interconnection or access.

Obligations of non-discrimination shall ensure, in particular, that the undertaking applies equivalent conditions in equivalent circumstances to other providers of equivalent services, and provides service and information to others under the same conditions and of the same quality as it provides for its own services or of its subsidiaries or partners. Obligations for non-discrimination can constitute an undertaking's duty to supply access products and services to all undertakings, including to itself, on the same timescales, terms and conditions, including those relating to price and service levels, and by means of the same systems and processes, in order to ensure equivalence of access.

■ Article 51 *Accounting separation*

ECOI may impose obligations on an electronic communications undertaking with significant market power for accounting separation between operations that relate to interconnection or access and other operations in such a manner that it will be possible to allocate all revenue and costs to operational units to which differing services can be allocated. In addition to this the Authority may require a vertically integrated undertaking to make transparent its wholesale prices and its internal transfer prices, inter alia to ensure equivalence and prevent unfair cross-subsidy. ECOI may specify the format and accounting methodology to be used. To ensure transparency and non-discrimination, ECOI may require that accounting records, including data on revenues received from third parties, are provided on requests. The Authority may publish accounting information of relevant undertakings that would contribute to an open and competitive market, having taken into account the rules on commercial confidentiality.

Article 52 *Price control*

In situations where market analysis indicates that lack of effective competition means that an undertaking with significant market power may sustain prices at an excessively high level, or may apply a price squeeze to the detriment of end users, ECOI can impose obligations on the undertaking concerned 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 or access.

In decisions pursuant to this provision, account shall be taken of the need to promote competition and the long-term end-users interests related to the deployment of next-generation networks, in particular of very high capacity networks. Investment shall be both taken into account and encouraged. Allowance shall be made for reasonable rate of return on adequate capital employed, having taken risk into account. Benefits of predictable and stable wholesale prices shall also be taken into account.

Consideration shall be given to whether it is possible to avoid imposing obligations pursuant to this provision if a demonstrable retail price constraint is present and where obligations on transparency, non-discrimination, separation of accountancy and access, particularly any economic replicability test applied pursuant to article 50, ensures effective and non-discriminatory access.

Cost recovery mechanism and pricing methodology shall promote the deployment of new and enhanced networks, efficiency and sustainable competition and shall maximise sustainable end-user benefits. In this regard, it is authorised to take into account prices available on comparable competition markets.

The burden of proof that charges are derived from costs, including a reasonable rate of return on investment, shall lie with the undertaking concerned. ECOI may require an undertaking to provide full justification for its prices, and may, where appropriate, require prices to be adjusted. The Authority can furthermore require an electronic communications undertaking to prepare a cost model for calculation of prices. When calculating costs, ECOI can use as a reference the operation of analogous service that is considered efficiently run and may use cost analysis methodologies that are independent of methodologies used by the electronic communications undertaking.

If an obligation constitutes implementing a cost accounting system, open access shall be ensured to a description of the cost accounting system which shows at least the main categories under which costs are grouped and the rules used for the allocations of costs. An independent and qualified party shall verify that the rules of the cost accounting system are complied with, and shall publish annually a statement concerning compliance.

The minister may issue a regulation on arrangements for separation of accountancy of electronic communications undertakings' operations, as provided for in article 51, including a breakdown by networks and services, and may prescribe detailed arrangements for cost analysis as provided for in this article, for instance, with regard to asset valuation, depreciation, required rate of return and preparation of cost models.

■ Article 53 *Termination rates*

Electronic communications undertakings that provide call termination shall not charge a higher rate than the equivalent of the single maximum rate for termination in the EEA. Where there are commercial agreements with individual states outside the EEA that prescribe a maximum termination rates, then they will apply.

The minister issues a regulation on single maximum termination rate for calls where among other things, it is authorised to prescribe the following:

- a. single maximum rate for call for wholesale termination in mobile networks;
- b. single maximum rate for call wholesale termination in fixed line networks;
- c. reference exchange rates and settlement methods that electronic communications undertakings are obliged to use when converting currency, as applicable, and
- d. special rules for termination and single maximum rates that apply to special commercial agreements.

Where no single maximum rate is in force in the EEA, ECOI is authorised to conduct market analysis on markets for call termination, in order to assess whether it is necessary to impose obligations.

ECOI shall ensure that the provisions for single maximum rates are complied with, and can demand that an electronic communications undertaking change its rates, if its rates are higher than a single maximum rate.

■ Article 54 *Maximum price for roaming service and intra EEA-communications*

Electronic communications undertakings that provide roaming service in this country shall ensure that wholesale and retail prices for roaming service, which originate or terminate in another state within the EEA, are not higher than the price in force in that country. Where

there are commercial agreements with individual states outside the EEA that prescribe a maximum price for roaming, then they shall apply.

The minister issues a regulation on roaming in public mobile networks where among other things, it is authorised to prescribe the following:

- a. maximum wholesale price for calls in roaming;
- b. maximum retail price for calls in roaming;
- c. maximum price in wholesale and retail for SMS service, MMS service and other data transfer service in mobile networks;
- d. a tariff which is not higher than that which harmonises with the maximum fee pursuant to Regulation (EC) no. 717/2007 on roaming on public mobile telephone networks within the Community and according to the Regulation (EU) 2015/2120 of the European Parliament and of the Council on measures concerning open internet access, on intra-EEA calls within the EEA;
- e. transparency of retail tariffs and tariffs pursuant to item d;
- f. reference exchange rates and settlement methods that electronic communications undertakings are obliged to use when converting currency for roaming in mobile networks;
- g. obligations of electronic communications undertakings to meet the wishes of roaming customers for switching between roaming tariffs;
- h. Electronic communication undertakings' duty to provide information on appropriate roaming rates;
- i. rules on time measurement and charging of telephone calls in roaming service;
- j. charges for reception of voice mail messages in roaming service;
- k. Electronic communications undertakings' duty to provide its roaming customers with their personal information on price and other matters related to data transfer in roaming service;
- l. Electronic communication undertakings' duty to enable roaming customers to monitor their data usage on the basis of price and quantity, and to provide them with the option of choosing a maximum limit for such service over a specific period of time, and
- m. special rules on roaming service and on single maximum price vis-à-vis specific states outside the EEA on the basis of commercial agreements for roaming service.

Electronic communications undertakings that provide number-based electronic communications service, whether these electronic communications take place over a fixed network for mobile, shall not charge a higher retail rate for such electronic communications, measured in quantity between countries than the single maximum price that applies in the EEA. If commercial agreements are in force with individual countries outside the EEA, the single maximum rates that is stated there shall apply.

The minister issues a regulation on single maximum rate for electronic communications specified in paragraph 3, where among other things, it is authorised to prescribe the following:

- a. single maximum rate per minute in retail;
- b. single maximum rate for SMS in retail;
- c. consumer choice of subscription options;
- d. reference exchange rates and settlement methods that electronic communications undertakings are obliged to use when converting currency;
- e. exemptions and conditions for them, and
- f. special rules for electronic communications and single maximum rates that apply to special commercial agreements.

ECOI shall monitor compliance with the provisions on single maximum rates and can demand that an electronic communication undertaking changes its rates, if they are higher than the single maximum rate.

■ Article 55 *New very high capacity networks*

Undertakings with significant market power may offer commitments on co-investment in deployment of new very high capacity networks. The commitment shall fulfil the following conditions:

- a. a new very high capacity network shall be open to all electronic communications undertakings at any moment during the lifetime of network;
- b. the commitment shall allow other co-investors to compete effectively and sustainably in the long-term in downstream markets in which the undertaking that has significant market power is active, and
- c. access seekers who do not take part in the co-investment, shall be given the option of access in an acceptable manner.

If ECOI comes to the conclusion, subsequent to the procedure pursuant to article 58, that the commitment fulfils the conditions of paragraph 1 and that at least one co-investor has entered into a co-investment agreement with the undertaking in question, the commitment shall be made binding and no additional obligations shall be imposed in accordance with article 46 as regards the elements of the very high capacity network covered by the commitment.

Despite the provisions of paragraph 2, ECOI may in duly justified circumstances impose, maintain or adapt remedies in accordance with articles 46-52 as regards the new very high capacity networks that are covered by paragraph 2, in order to address significant competition problems on specific markets where it has been established that, given the specific characteristics of these markets, those competition problems would not otherwise be addressed.

ECOI shall, on an ongoing basis, monitor compliance with the conditions set out in paragraph 1 and may require the undertaking in question to provide it with annual compliance statements. ECOI may decide any dispute that arises between parties to the agreement on co-investment.

The minister issues a regulation which prescribes in more detail the conditions with respect to commitments and procedure pursuant to this provision, including new conditions.

■ Article 56 *Functional separation*

If ECOI concludes that the obligations imposed under articles 47-52 have failed to achieve effective competition and that there are important and persistent competition problems or market failures identified in relation to the wholesale provision of relevant access product markets, it may, on an exceptional basis, in accordance with paragraph 4 of article 46, impose an obligation on vertically integrated undertakings to place activities related to the wholesale provision of relevant access networks in a business entity operating independently.

A separate business entity, pursuant to paragraph 1, shall supply access products and services to all undertakings, including to other business entities within the same company group, on the same timescales, terms and conditions, including those relating to price and service levels, and by means of the same systems and processes.

If ECOI intends to impose an obligation on functional separation, it shall submit the request to ESA. The following shall accompany such a request:

- a. evidence justifying the conclusions such as are specified in paragraph 1;
- b. a reasoned assessment concluding that there is no or little effective and sustainable infrastructure-based competition within a reasonable time-frame;
- c. an analysis of the expected impacts of the decision on stakeholders and on the market, and
- d. an analysis of the reasons justifying that this obligation would be the most efficient means to address the competition problems or markets failure identified.

The draft measure shall include the following elements:

- a. the precise nature and level of separation, specifying in particular the legal status of the separate business entity;

- b. an identification of the assets of the separate business entity, and of the products and service to be supplied by that entity;
- c. the governing arrangements to ensure the independence of the staff employed by the separate business entity, and the corresponding incentive structure;
- d. rules for ensuring compliance with the obligations;
- e. rules for ensuring transparency of operational procedures, in particular towards other stakeholders, and
- f. a monitoring programme to ensure compliance, including the publication of an annual report.

If ESA endorses draft measures for separation, ECOI shall conduct the analysis of markets related to the relevant access network. On the basis of the analysis, obligations shall be imposed, maintained, amended or withdrawn on the relevant market. It is authorised to impose obligations pursuant to paragraph 4 of article 46 and/or articles 47-52 on an undertaking that has been obliged to separate elements in its operations pursuant to this provision if the undertaking has significant market power on a specific market.

■ **Article 57. Voluntary *separation by a vertically integrated undertaking***

An electronic communications undertaking that has been designated as having significant market power on one or more important markets, shall inform ECOI at least three months before any intended transfer of its 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 its own retail departments, with fully equivalent access. The undertaking shall also inform the Authority of any change of that intent, as well as the final outcome of the process of separation.

The electronic communications undertakings can also offer commitments regarding access conditions that are to apply to their network, subsequent to the separation being implemented, with a view to ensuring effective and non-discriminatory access by third parties. The offer of a commitment shall include sufficient information, including timing and duration.

ECOI shall assess the effect of the intended separation, together with the commitments offered, where applicable, on existing regulatory obligations on the relevant market. For that purpose, analysis shall be conducted of those markets that relate to the relevant access network.

On the basis of an analysis pursuant to this provision, ECOI shall impose, maintain, amend or withdraw obligations on the relevant market and shall apply article 59, if applicable. The Authority can decide to make the commitments binding wholly or in part, pursuant to paragraph 2.

ECOI shall monitor the implementation of the commitments that has been made binding pursuant to paragraph 4, and shall consider their extension when the period for which they are initially offered has expired.

■ **Article 58 *Commitments procedure***

An electronic communications undertaking that is designated as having significant market power may offer ECOI commitments regarding conditions for access, co-investment, or both, applicable to their networks in relation, inter alia, to:

- a. co-operative arrangement relevant to the assessment of appropriate and proportionate commitments, pursuant to article 46;
- b. co-investment in very high capacity networks pursuant to article 55, or
- c. effective and non-discriminatory access by third parties, pursuant to article 57.

The offer for commitments shall be sufficiently detailed and shall cover timing, their scope of implementation and durations.

In order to assess any commitments offered by an undertaking pursuant to paragraph 1 of this article, ECOI shall perform a market test, in particular on the offered terms, by conducting

open public consultation with stakeholders, in particular third parties which will be directly affected. This however does not apply where commitments offered by an undertaking, pursuant to paragraph 1, clearly do not fulfil one or more of necessary conditions or criteria. Having taken into account all the views expressed in the consultation process, ECOI shall communicate to the undertaking designated as having significant market power its preliminary conclusions whether the commitments offered comply with the objectives, criteria and procedure set out in this provision and, as applicable, in articles 46, 55 or 57, and under which conditions the Authority may consider making the commitments binding. The undertaking may revise its initial offer in the light of ECOI preliminary conclusions with a view to satisfying the criteria.

ECOI can published a decision to make commitments binding pursuant to this provision, wholly or in part. In such a decision, ECOI can decide a duration for binding commitments. Where ECOI has made commitments binding pursuant to this provision, it shall assess the consequences of that decision for market development and decide which obligations it is appropriate to impose or maintain on the relevant market.

ECOI shall monitor and ensure compliance with the commitments that it has made binding. ECOI shall consider the extension of the period for which they have been made binding when the initial period expires.

■ Article 59 *Wholesale-only undertakings*

If ECOI designates an electronic communications undertaking as having significant market power and where it does not operate on any retail electronic communications market, the Authority shall consider whether the undertaking has the following characteristics:

- a. all companies and business units within the undertaking; all companies that are controlled but not necessarily wholly owned by the same ultimate owner, and any shareholders capable of exercising control over the undertaking, only have activities, current and planned for the foreseeable future, in wholesale markets for electronic communications services and therefore do not have activities in any retail markets for electronic communications services provided for end-users, and
- b. the undertaking is not bound to deal with a single and separate undertaking operating on a downstream market and 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.

If ECOI concludes that the conditions laid down in paragraph 1 are fulfilled, it may impose on that undertaking only obligations pursuant to articles 48 and 50 and for fair and reasonable pricing if such is considered justifiable on the basis of a market analysis.

ECOI shall review obligations imposed on the undertaking in accordance with this provision at any time, if it concludes that the conditions laid down in paragraph 1 of this article are no longer met. The relevant undertaking shall, without undue delay, inform ECOI of any change of circumstance relevant to conditions pursuant to paragraph 1 of this article.

ECOI shall also review obligations imposed on the undertaking in accordance with this provision, if the Authority concludes, on the basis of evidence of terms and conditions offered by the undertaking to its customers in downstream markets, that competition problems exist or are likely to arise to the detriment of end-users, and that there could be a need to impose obligations for transparency, accounting separation, access to civil engineering or price control or to make amendments to obligations that have been imposed pursuant to paragraph 2.

■ Article 60 *Migration from legacy infrastructure*

An undertaking with significant market power shall notify ECOI in advance and in a timely manner when it plans to decommission or replace parts of a network which is subject to obligations that have been imposed on the undertaking, pursuant to the provisions of this Act.

ECOI shall ensure that the decommissioning or replacing process has a clear timetable and conditions, including that the implementation is notified with appropriate notice period and, if considered necessary to protect competition and rights of end-users, that arrangements are made for other options to be available, at least of comparable quality, which provide access to the new network.

ECOI may withdraw obligations that apply with respect to the network that is to be decommissioned or replaced, when it has been ascertained that the access provider:

- a. has established the appropriate conditions for migration, including making available an alternative access product of at least comparable quality as was available using the legacy infrastructure enabling the access seekers to reach the same end-users, and
- b. has complied with the conditions and process notified in accordance with this article.

Such withdrawal shall be endorsed in accordance with the procedures referred to in articles 24 and 28 of the Act on ECOI no.75/2021.

■ Article 61 *Regulatory control of retail services*

If, ECOI concludes, subsequent to a market analysis, that competition is not effective on specific retail market and that obligations on wholesale level will not lead to the objectives of this Act being achieved, the Authority may impose appropriate obligations on an undertaking that has significant market power on the retail market.

Obligations imposed pursuant to paragraph 1 shall be based on the nature of the problem identified and be proportionate, and justified in the light of the objectives laid down in this Act. The obligations imposed may include requirements that an undertaking does not charge excessive prices, does not inhibit market entry or restrict competition by setting predatory prices, show undue preference to specific end-users or unreasonably bundle services. ECOI may furthermore apply to such undertakings a retail price cap measures, measures to control individual tariffs or measures to orient tariffs towards costs or or prices on comparable markets, in order to protect end-user interests whilst prompting effective competition.

Companies subject to retail tariff regulation or other relevant retail controls, shall use necessary and appropriate cost-accounting systems. ECOI is authorised to specify the format and accounting methodology used. An independent and qualified body shall verify that the rules for cost-accounting systems are complied with, pursuant to paragraph 6 of article 52. ECOI shall ensure that a statement is published annually on whether the rules of a system are complied with.

Chapter X Universal service

■ Article 62 *Right to universal service at an affordable price*

Consumers, at their legal abode or residence pursuant to registration in Registers Iceland, be guaranteed access at an affordable price to usable network access service with specified quality, including underlying connections.

Types of service within universal service are not limited to a specific technology.

A consumer can request that a connection pursuant to paragraph 1 be limited to support for telephone service.

The right to universal service pursuant to paragraph 1 is not unreserved and can depend on limitations for cost, geographical conditions or other difficulties. A dispute on denial of service shall be submitted to ECOI for decision.

The right to universal service at an affordable price pursuant to the site shall also cover micro enterprises in the understanding of the law on annual accounts, at places where they have all year round operations.

The minister shall prescribe in a regulation, more detail about service and measures being offered to consumers through the relevant connection. Among matters that the minister can

prescribe in regulation are more detailed criteria about functionality, quality and technical characteristics that network access service shall offer as a minimum.

■ *Article 63 Price control within universal service and access to universal service*

Information on prices and business conditions for the provision of universal service shall be published, at least on the ECOI website. ECOI shall monitor development and pricing of universal service in retail, pursuant to article 62, particularly with respect to national pricing and consumer income.

If it is the opinion of ECOI that the retail price for universal service pursuant to article 62 is not feasible for people on low incomes or that consumers with special social needs are excluded from access to the service, the Authority can decide that an electronic communications undertaking that provides universal service shall offer a special tariff for these specific groups, or adopt other measures necessary to guarantee access to universal service.

The minister is authorised to prescribe more clearly in a regulation, conditions and implementation of measures pursuant to this provision.

64. gr. Access to universal service

If a market survey and additional proof, if necessary, indicate that because of commercial considerations of electronic communications undertakings, consumers do not have access to universal service as it is defined in each instance, ECOI can designate an electronic communications undertaking, one or more, as having universal service obligations to ensure adequate universal service for all citizens, pursuant to article 62. When designating pursuant to this provision, non-discrimination, objectivity and transparency shall be respected. An obligation may be prescribed to provide service in specific areas or by types of service.

When designating, efforts shall also be made to minimise market distortion, particularly the provision of service at a price or with reservations on terms and conditions that deviate from normal commercial terms of business, and furthermore protect public interests.

ECOI shall be informed with sufficient notice about planned sale of an access network, or of a significant part of such a network, by an electronic communications undertaking that has been designated as a provider of universal service pursuant to this provision, as changed circumstances can call for a review of measures taken by the Authority.

The minister is authorised to prescribe more clearly in a regulation, conditions and implementation of measures pursuant to this provision.

65. gr. Cost of universal service

Should an electronic communications undertaking be of the opinion that universal service which it is obliged to provide, see paragraph 1 of article 64, is operated at a loss and thus represents an unfair burden on the undertaking, it may apply to ECOI to be ensured normal remuneration for the service in question.

When calculating net-costs in connection with universal service obligation, one shall among other things take into account all market benefits of the service provider that provides usable net access service or telephone service of a specific quality.

Should ECOI receive a request for financial contributions in accordance with paragraph 1, and if the service which is considered as necessary and may not be discontinued, cannot be ensured through any other more economical means, the Authority shall determine the cost of the universal service obligation.

ECOI shall require the universal service provider to give precise information on the operational loss involved in the service and a breakdown thereof.

In assessing the financial contributions, ECOI may demand a report from a chartered accountant or instruct such a party to audit the profitability in the field of operation concerned. ECOI may demand access to the accounts of an electronic communications undertaking in assessing the cost of universal service.

Financial contributions shall as a rule be assigned for one year at a time. Should either of the parties be of the opinion that the premises for the decision on financial contributions have changed substantially either of them may demand a review of the contributions during its duration.

If part of the activities of an electronic communications undertaking is dependent upon financial contributions as provided for in these provisions, this aspect of operations shall be kept separate from other activities of the undertaking in its accounts. If such separation is not in place, ECOI shall reject the electronic communications undertaking's application for funding.

The minister can prescribe in a regulation, more detailed calculations of costs for universal service pursuant to the methodology for net-cost.

Article 66. Funding of universal service

To finance the payment of financial contributions as provided for in this chapter an equalisation fee shall be collected, which shall go to the treasury.

An equalisation fee shall be levied on electronic communications undertakings that operate public electronic communications networks or public electronic communications service, as a proportion of the reported turnover of such operations. Reported turnover shall mean the operating income which the electronic communications undertaking receives from the activity in question in this country.

The equalisation fee shall be decided by law. The financial need for universal service shall be reviewed annually by ECOI and the conclusion of this review, and a proposal for an amended proportional fee, if considered necessary, shall be submitted to the minister. Should expenses prove higher than the amount of the equalisation fee for the year, the difference shall be entered against the obligations for the following year. Should the amount of the equalisation fee be higher than expenses for the same year, the surplus shall be carried over to the following year.

The equalisation fee may be deducted from the income in the operating year when its base was formed.

The equalisation fee shall not be imposed on electronic communications undertakings that have reported annual turnover of less than ISK 30,000,000.

Imposition and collection of the equalisation fee, including advance payment, will be pursuant to the provisions of Chapters VIII.– XIV of the Act on income tax no. 90/2003, on penalties shall be pursuant to Chapter XII of that Act.

ECOI shall annually publish information on cost calculation for universal service obligations and a broken down list of individual payments of equalisation fee by undertakings.

Chapter XI Conditions, tariffs, quality and consumer protection

■ *Article 67 Exemption from scope and duty to provide information*

The provisions of article 69-77 shall not apply to electronic communications undertakings that provide number-independent interpersonal communications services and where the undertakings are categorised as microenterprises in the understanding of legislation on annual accounts - unless they also provide other electronic communications service.

Electronic communications undertakings to which the provisions of article 69-77 do not apply pursuant to paragraph 1, shall inform end users in a verifiable manner that the exemption applies before concluding a contract on service..

■ *Article 68 Non-discrimination*

Providers of electronic communications networks or services are not authorised to make different demands or impose varying conditions for access to, or use of, electronic communications networks or electronic communications services for end users, for reasons

related to their nationality, residence or place of establishment, unless such treatment is objectively justified.

■ *Article 69 Information requirements for contracts*

Before a consumer is bound by a contract or offer, providers of publicly available electronic communications services shall provide in a clear and verifiable manner, the following information, which shall be an integral part of the contract :

- a. information in accordance with the provisions of Chapters II and III of the Act on Consumer Contracts No. 16/2016, and
- b. an overview of the main content of the contract pursuant to paragraph 2.

In the overview of the main content of the contract for electronic communications service, at least the following information shall be specified:

- a. name, address and contact information of the service provider;
- b. main characteristics of the service to be provided, such as service quality level and the time for initial connection;
- c. prices for activating the service and subscription or usage-related charges, where the service is provided for direct payment;
- d. duration of the contract and conditions for its renewal or termination;
- e. the extent to which the product and/or service is designed for end-users with disabilities, and
- f. the method of initiating procedures for settlement of disputes between consumers and electronic communications undertakings.

The provisions of paragraph 1-2 do not apply to data transfer service, which is used to provide service from one device to another.

The minister shall prescribe in more detail in a regulation, information requirements for contracts, among other things the main characteristics of service and a contract summary template. It is authorised to make a distinction between the obligation for provision of information and the nature of the electronic communications service covered by the contract, such as internet access service. Further details can be provided in a regulation on how information shall be disseminated pursuant to this provision such that it is deemed to meet the conditions of paragraph 1 on providing information in a clear and verifiable manner, for example in the case of end-users with disabilities.

■ *Article 70 Comparison of electronic communications services*

ECOI shall ensure the operation of a comparison service which enables end-users, free of charge, to compare and evaluate different internet access services, publicly available number-based interpersonal communications services and, as applicable, publicly available number-independent interpersonal communications services with respect to:

- a. price and tariffs of services provided and subscription or usage-related charges, and
- b. the quality of service, where minimum service quality is offered.

The comparison service shall be independent of those undertakings that may sell electronic communications services.

ECOI issues rules concerning the quality of electronic communications services and presentation of information published to enable users to have access to comprehensive, comparable and easily understandable information.

■ *Article 71 Quality of electronic communications service and network neutrality*

Electronic communications undertakings shall take measures to support the protection, functionality and quality of electronic communications service. ECOI is authorised to issue rules on such measures which prescribe further detail on:

- a. minimum service and varying service level;
- b. technical conditions of the service and its minimum quality;

- c. requirements for provision of information by electronic communications undertakings, measuring techniques and service quality tests;
- d. provisions in service contracts;
- e. ways to facilitate assessment of the quality of service and price comparison;
- f. protection and management of public electronic communications networks;
- g. protection of user connections, and
- h. procedure for handling security incidents and remedial measures.

Users with internet access service shall have the right to access to information and content, distribute this, use, and provide service by using equipment of their choice, irrespective of the users or the providers location or origin or destination of the information, content and service. The provisions of the first sentence in this paragraph do not however apply to use or access to content or service which breaches other laws or judgements.

Providers of internet access service shall treat all traffic equally without discrimination, restriction or interference and irrespective of the sender or receiver, the content accessed or distributed, of the service that is used or provided and of the equipment that is used.

Despite paragraph 3, providers of internet access services are authorised to implement traffic management to electronic communications traffic, if management is necessary, transparent, proportionate and non-discriminatory.

The minister issues a regulation on implementation of network neutrality, among other things with respect to the following:

- a. permissible purpose of traffic management;
- b. conditions for exercising traffic management;
- c. conditions for offering special service which uses a specific network topology;
- d. protection of personal data when exercising traffic management;
- e. provision of information by electronic communications undertakings to users in terms of business, and
- f. provision of information by electronic communications undertakings to ECOI and its enforcement measures, among other things on audits of implementation of network neutrality.

■ Article 72 *Duration, termination and amendments to agreements*

In contracts it is not authorised to mandate a commitment period longer than six months.

After that period of time, the consumer is authorised to terminate a contract with one month's notice. The provisions of the first sentence of this paragraph do not however apply to instalment contracts that a consumer makes for the installation of an electronic communications connection, in particular to very high capacity networks.

An end user shall have the right to terminate a contract without notice and without payment of damages in the following instances:

- a. when he receives notification of planned changes to contractual conditions which do not constitute a gain, or
- b. when there is a significant and recurring discrepancy between the real performance of agreed electronic communications service, other than internet access service, and the performance specified in the contract.

In the case of paragraph 2, item a, the end user shall be given at least one month's notice before changes come into force, and he shall furthermore be informed of his rights pursuant to this paragraph if he does not wish to agree to the changes.

When a contract on electronic communications services with a specific contractual duration is prolonged automatically, the provider shall inform the end user with one month's notice of planned end of contract. At the same time and/or when changes are made to a contract, the end user shall be informed on how he can terminate the service and where he can find the best tariff information.

In the case of a lawful termination of a contract for electronic communications service by an end user, payment of damages can only be possible if an end user chooses to retain terminal equipment at the end of the contract. Damages to provider shall amount to a maximum of the value of the equipment in direct proportion to the duration as agreed on termination of the contract, or amount to the remainder of service charge at the moment of the contract conclusion, whichever is the lower amount. An electronic communications undertaking shall waive all conditions for use of terminal equipment on other networks without charge, at the latest when a payment of damages pursuant to the second sentence of the paragraph has been made.

■ *Article 73 Publication of conditions and tariffs*

Electronic communications undertakings shall publish terms of business and tariff for all of their services and have this accessible on their websites. Users of universal service shall be able to monitor and control expenditure for the services.

Where internet access, or voice communication service is charged by time or consumption, the electronic communications undertaking shall enable the user to monitor and control his use. Electronic communications undertakings shall furthermore notify consumers before the included time or consumption of the service option is reached.

In conditions for telephone service and usable internet access service, it shall be stated explicitly that an end user is not obliged to pay for facilities or service that is not necessary and has not been requested for the purpose of a service which was requested.

The minister can provide more detail on this provision in a regulation, including on transparency in control of expenditure.

■ *Article 74 Invoices etc.*

End users of voice communications service shall be entitled to receive itemised bills for their electronic communications services with a breakdown by service provided, and subscribers of universal service shall be entitled to such bills without charge. Notwithstanding the first sentence, the minister can pursuant to article 4 prescribe an exemption from the duty of electronic communications undertakings to itemise invoices in instances where the fee for telephone service is not dependent on use of the service.

Information that can constitute sensitive personal information, such as about voice calls to social services, and helplines of various kinds, shall not be shown on itemised invoices where those who provide such advice or assistance have already notified electronic communications undertakings in advance about their operations. In preparing itemised bills, the Act on Data Protection and the Processing of Personal Data and the protection of privacy shall be taken into account.

If calls are subject to a premium rate the service provider shall always indicate the amount of the rate at the beginning of a call. Users shall have the option of barring calls to numbers subject to a premium rate. More detailed provision for premium rate calls and other premium services shall be specified in a regulation. An electronic communications undertaking is authorised to send a separate invoice for premium rate services to users. ECOI may grant exemption from the information obligation concerning premium rates.

The minister it is authorised to issue a regulation on the handling of information which is required for preparing invoices, their itemisation, closing of premium rate numbers and handling of complaints.

■ *Article 75 Non-payment*

It is authorised to disconnect electronic communications service in the event of non-payment, if the end user has been given a written warning at least one month before closure. During the first month following disconnection it shall, however, be possible to receive calls. It is unauthorised to disconnect service because of non-payment for premium rate services.

In cases where a subscriber has fraudulently attempted to avoid payment or to transfer responsibility to an unrelated party, an electronic communications undertaking may disconnect the service in question without warning.

■ *Article 76 Number portability and transfer of network access service between electronic communications undertakings*

Users of voice communications services shall be able to retain their numbers independently of the electronic communications undertaking providing the service. This shall not, however, apply to the porting of numbers between fixed lines and mobile networks.

ECOI shall ensure that pricing for number portability is based on cost plus a reasonable markup. It is not authorised to bill this charge to an end user.

When migrating between electronic communications undertakings that provide voice communications service and network access service, end-users shall be kept informed prior to and during transfer and shall ensure continuity in the service, unless this is not technically possible. Electronic communications undertakings shall work together on the transfer procedure in good faith. The receiving provider shall ensure that active service is enabled as quickly as possible and in accordance with the service agreement. The transferring provider shall provide its service with the same conditions until the receiving provider activates his service to the end user. Loss of service during the transfer procedure shall not last longer than one working day. The end of the transfer procedure equates to termination of the agreement with the transferring provider. If the transfer procedure of voice communications service fails, the electronic communications undertaking is obliged to reopen the number and connect the service to the end user until the transfer succeeds.

The electronic communications undertaking shall at the request of a consumer that has switched voice communications service pursuant to paragraph 3, repay unused balance of prepaid service. Such repayment can only be subject to a fee if this is prescribed in the contract, and is moderate and in true proportion to the real cost of the transfer procedure to the undertaking.

ECOI issues more detailed rules on number and service transfer, including on timing in this connection and compensation to end users in instances where there are mistakes in the transfer procedure for voice communications service or internet access service, where there is misuse or delays in the transfer procedure and services not provided in the agreed manner.

ECOI decides in disputes on implementation of number and service transfer.

■ *Article 77 Bundled offers*

In a contract with the consumer on a bundle of services which contains at least voice communications service and internet access service, with or without terminal equipment, the following requirements shall apply to all elements in the bundle:

- a. information requirements for contracts pursuant to article 69;
- b. information on duration, amendments and termination of contracts pursuant to article 72, and
- c. information on number portability and transfer of internet access service between service providers pursuant to article 76.

If a consumer has, according to article 72, the right to terminate prior to the end of the term of the contract due to default or failure to deliver with respect to a specific element in the bundle of services, then this right is deemed to cover the bundle as a whole.

The duration of a contract between a consumer and electronic communications undertaking on voice communications service or internet access service will not be amended with respect to the service with a new subscription to additional service or terminal equipment unless the consumer explicitly endorses such a change.

The provisions of paragraphs 1 and 3 shall apply to micro enterprises in the understanding of legislation on annual accounts and to associations that are not operated for profit unless they waive this right in a clear manner.

Chapter XII Security of information, electronic communications networks and electronic communications service Cyber Surveillance Team

Article 78 *Organisation of network and cyber security and the scope of risk management*

Electronic communications undertakings that provide public electronic communications services or operate public electronic communications networks shall document security policy and procedures to assess, manage and minimise risks that can threaten their network and/or services.

Electronic communications undertakings that provide public electronic communications services or operate public electronic communications networks shall do their utmost to protect information that passes through electronic communications networks against accidental loss, damage, or alteration, or against unauthorized access to it.. On the basis of security policy, risk assessment shall be conducted regularly with regards to the security of information and on this basis decide and re-evaluate security measures.

Electronic communications undertakings that provide public electronic communications services or operate public electronic communications networks shall have a documented continuity plan and a plan for continuous and uninterrupted operations of electronic communications service to limit impact in case of a serious disruption of its operations. Processes and responses to security incidents, pursuant to article 80, shall be detailed in the information security policy, including the registering of incidents.

Security structure, measures and risk management pursuant to this provision shall take account of international standards and international criteria on best practice. This shall cover technical and organisational measures, as may be appropriate, and as a minimum relate to:

- a. security of electronic communications networks, electronic communications equipment, systems, facilities and resources;
- b. handling of security incidents;
- c. continuous function and operations of electronic communications networks and electronic communications service, and
- d. internal control in the form of audits and tests.

Electronic communications undertakings that provide public electronic communications services or operate public electronic communications networks shall maintain an active system for internal control to ensure that the framework of risk management and response measures in its operations fulfil the requirements of this Act. If applicable, an electronic communications undertaking which uses the electronic communications network of another electronic communications undertaking collaborates with the undertaking on security arrangements, measures and risk management, pursuant to this provision.

An electronic communications undertaking which outsources operations that are necessary for functionality, protection or management of electronic communications shall make a written service agreement with the service provider. The service agreements shall clearly define roles and obligations of both parties, specify outsourced operations and ensure ECOI access to relevant information from the service provider for surveillance on the basis of this Act.

Electronic communications undertakings that outsource operations beyond Icelandic jurisdiction that are essential for functionality, protection or management of electronic communications in Iceland, shall take appropriate measures as quickly as possible, if there is considered to be a risk that the outsourcing will threaten operational continuity or electronic communications confidentiality which relate to public interests or national security. If such outsourcing causes an interruption in operational continuity or electronic communications

confidentiality in regard to state security, the electronic communications undertaking shall respond without delay for the purpose of ensuring continuing operations and limit impact, as applicable, by bringing the operations into Icelandic jurisdiction. Electronic communications undertakings shall notify ECOI without delay about new information or other matters that relate to resilience of electronic communications networks or electronic communications service and that relate to public interests or national security.

ECOI can require an electronic communications undertaking to conduct a special risk assessment on specific operational and system elements of electronic communications networks or electronic communications service, or on specific threats that could impinge on information, electronic communications networks and electronic communications service. Electronic communications undertakings shall, as applicable implement specialised security measures based on the results of such an assessment, which among other things will be based on international criteria for best practice.

When assessing security organisational structure, measures and risk management of an electronic communications undertaking pursuant to this provision, ECOI shall among other things take into account interests of users of electronic communications service with respect to the service being uninterrupted, public interests and national security.

The minister shall prescribe in more detail in regulation, the duties of electronic communications undertakings pursuant to this provision, including matters such as performance capacity and the flow of traffic through public electronic communications networks, response exercises and surveillance measures of ECOI.

Having received the opinion of ECOI and of the National Commissioner of the Icelandic Police, the minister can prescribe in regulation that systems and equipment in electronic communications networks that are considered critical with respect to public interests or national security, shall be located in Icelandic jurisdiction, given that the equipment and systems in question are necessary for functionality or management of electronic communications within the country. In a regulation pursuant to paragraph 1, the minister can also prescribe that the operation of such equipment and systems shall take place in Icelandic jurisdiction, including supervision and monitoring of functionality and condition of electronic communications networks.

■ Article 79 *Audits and binding instructions*

ECOI can perform audits and tests to establish whether an electronic communications undertaking fulfils the requirements of this Act with respect to network and information security, functionality and risk management of electronic communications service and public electronic communications networks. ECOI can furthermore require that a competent third-party conducts audits and tests and prescribe the submission of documentary conclusions from the party in question. Outlay costs for audits and tests shall be paid by the electronic communications undertaking in question.

ECOI can also conduct an assessment of the integrity, security and functionality of public electronic communications networks and electronic communications service with respect to risk, holistically or partially.

If an electronic communications undertaking does not fulfil the requirements of article 78 in the opinion of ECOI, the Authority shall require that this be remedied within a reasonable period of notice. Should the electronic communications undertaking fail to comply with the ECOI instructions for remedies to serious weaknesses, the Authority can commission the task at the cost of the electronic communications undertaking in question. A claim for costs for this reason is enforceable pursuant to item 5 of paragraph 1 of article 1 of the Act governing enforcement no. 90/1989.

■ Article 80 *Notifications of security incidents*

An electronic communications undertaking that operates a public electronic communications network or provides public electronic communications service shall notify without delay, the ECOI computer security incident response team about all serious security incidents that threaten security or functionality of public electronic communications networks or public electronic communications service.

When assessing the seriousness of a security incident pursuant to paragraph 1, attention shall particularly be paid to the following:

- a. the number of users affected by the security incident;
- b. the duration of the security incident;
- c. geographical spread and scope of impact of the security incident;
- d. the extent to which functionality of the network or the provision of service is impacted, and
- e. the scope of impact of the security incident on economic and community activities.

ECOI shall be notified without delay if there is a risk that security or confidentiality of information on electronic communication networks will be compromised or if it has been compromised.

A notification pursuant to this provision shall among other things provide information on possible outsourcing arrangements and potential infection impact, even cross-border. The scope of the notification is decided in other respects by the nature of the case and circumstances.

The Computer Emergency Response Team shall ensure that information on security incidents is accessible for the purpose of surveillance, pursuant to article 79.

ECOI can issue rules prescribing further detail on the nature and implementation of the duty to inform pursuant to this provision.

■ Article 81 *Provision of information*

Where a special or wide-ranging threat encroaches on an electronic communications network or electronic communications service, electronic communications undertakings shall inform users that can be impacted by the threat. They shall furthermore inform about potential security measures and remedies that can be applied. Where applicable, they shall provide information on the alleged threat. If there is a risk that security or confidentiality of electronic communications on a specific network will be compromised, the service provider shall inform users about the risk. The provision of information shall free of charge.

Where public awareness is necessary to prevent or tackle a security incident, and when provision of information about security incident is for other reasons necessary for public interests, ECOI is authorised to inform the public about the security incident or to instruct electronic communications undertakings to do so. The Authority is also authorised to inform the public about vulnerabilities and general risks, where this is necessary for the public interests. The police shall be consulted on such notifications, where applicable.

ECOI shall, if necessary, inform the authorities in other EEA states and the European Union Agency for Cyber Security. ECOI shall annually send ESA and the European Union Agency for Cyber Security a general report on notified security incidents pursuant to article 80, and on handling of incidents.

■ Article 82 *Preparedness and role of Computer Emergency Response Team*

The Computer Emergency Response Team shall assist electronic communications undertakings with preventative measures, provide them with guidance and support timely response against imminent risk. In the event of a wide-ranging security incident, the Computer Emergency Response Team coordinates measures taken by the parties in question against imminent threat for the purpose of minimising damage and reactivating or repairing non-functioning systems.

The Computer Emergency Response Team shall analyse and handle threats and security incidents in networks and service of electronic communications undertakings and prevent and

mitigate risks and security incidents to the extent possible and resist and minimise damage for all parties that may suffer from such incidents.

Electronic communications undertakings shall respond without delay to instructions from the Computer Emergency Response Team with regards to measures to be taken against imminent cyber threats, whether such a threat encroaches on security of networks and service of one or more electronic communications undertakings. The same applies in the case of a very serious risk or incidents that encroach on networks and information systems of critical infrastructure or public institutions, public interests or national security.

The Computer Emergency Response Team shall endeavour to analyse network threats and security incidents in the field of electronic communications at their inception and shall send early warnings to support immediate response against imminent threats. The Computer Emergency Response Team shall notify and disseminate information to the relevant stakeholders on threats and security incidents. The Computer Emergency Response Team provides advice on measures and readiness and disseminates information to the public where considered necessary, and as applicable in consultation with other authorities.

The Computer Emergency Response Team shall establish a collaborative group with electronic communications undertakings for technical cooperation and exchange of information in the field of network and information security, among other things to identify analyse threats and security incidents and also to coordinate response.

The Computer Emergency Response Team is authorised to notify the National Commissioner of Icelandic Police of serious or wide-ranging security incidents and shall, as applicable, cooperate with that public office on defence and response. The Computer Emergency Response Team shall without delay encourage electronic communications undertakings to notify the police about security incidents, should there be a suspicion of criminal conduct.

■ Article 83 *Computer Emergency Response Team agreements with electronic communications undertakings*

If ECOI considers it necessary, electronic communications undertakings and the Computer Emergency Response Team shall make an agreement on the installation and operation of a technical monitoring service for network and information systems of electronic communications undertakings, for the purpose of identifying risks and signs of attacks, malicious code and other indications of compromises that could create risk for the security of electronic communications networks and electronic communications service of electronic communications undertakings.

Agreements pursuant to paragraph 1 shall at least contain provisions that relate to:

- a. equipment and network systems that connect to Computer Emergency Response Team;
- b. technical solutions applied in monitoring, and
- c. type and processing of the data, including personal data, that is gathered, and handling, storage and deletion of such data.

Electronic communications undertakings are obliged to host and interconnect the Computer Emergency Response Team equipment considered necessary by the ECOI without charge, pursuant to paragraph 1 for technical monitoring and for information on public network traffic pursuant to paragraph 4. The Computer Emergency Response Team is authorised to receive information on the basis of an agreement on monitoring service without a court order.

It is neither authorised to personally identify network traffic or to scan individual network packages or flows that the Computer Emergency Response Team may access in public network systems of electronic communications undertakings. The Computer Emergency Response Team is however authorised to receive information on public network traffic without a court order, including at network exchange points and in foreign portals, insofar as such information cannot be personally identifiable.

■ Article 84 *Access to information, confidentiality, and processing of personal data*

Regarding the Computer Emergency Response Team access to data and information, special obligation on confidentiality and exemptions from such an obligation, and on the handling of personal data, the provisions of articles 17 and 19-21 of the Act on security of network and information systems for critical infrastructure no. 78/2019 shall apply.

■ Article 85 *Authorisation by regulation for the Computer Emergency Response Team*

The minister, having consulted with ECOI and having received an opinion from the Data Protection Authority and from the National Commissioner of Icelandic Police, issues a regulation prescribing in more detail the operations of the Computer Emergency Response Team pursuant to this Act. The regulation shall among other things cover the handling of notifications and of a system of categorisation for incidents, risk, information and format of instructions, and also with cooperation with the police.

■ Article 86 *Protection of electronic communications facilities*

Where there are electronic communications facilities, no structures can be built, equipment installed, cables laid, soil work or other operations near the electronic communications facility which could cause damage to the electronic communications facilities or interfere with their operations, unless information has been obtained in advance as to the where the facilities are situated and the owner of the electronic communications facilities consulted as to arrangements for the operation.

If it proves necessary, due to a construction project, to move or alter the location of electronic communications facilities, the parties carrying out such an operation shall bear the entire cost which may result, both directly and indirectly, of such operation unless otherwise agreed. Should disturbance to the ground or other operations have resulted in damage to an electronic communications facility or interference to their operations, the party who has caused this shall notify the owner of the electronic communications facility thereof immediately. The party causing the damage must, moreover, make compensation for all losses which have been caused either directly or indirectly by the damage, including loss of business, unless it can prove that the damage was unavoidable despite the utmost precautions having been taken. Liability for damages pursuant to paragraph 2, does not apply to cables which has been laid at a depth of less than 20 cm within the boundaries of a real estate.

Seafarers must be on the alert and exercise caution where electronic communications cables have been laid underwater. It is prohibited to fish with fishing gear that is fixed to the seabed or trolled along the seabed, such as nets, bottom trawl or similar gear, in areas where electronic communications cables lie. Such an area shall reach one quarter of a mile from each side of the electronic communications cable. Ships are also prohibited from lying at anchor in the same distance from electronic communications cables. The minister is authorised to grant an exemption from the ban on fishing pursuant to this paragraph, in special circumstances, in the case of fishing gear which is not considered likely to disturb the security of electronic communications cables in the area in question, having taken circumstances into consideration. The minister is authorised to prescribe conditions in more detail for exemptions pursuant to this paragraph in the regulation. Should damage occur to an electronic communications cable in the sea, which has resulted from intent or from extreme negligence, the party causing the damage shall compensate for direct and indirect financial damage, unless he can show that he has taken all necessary cautionary measures to avoid damage. When a ship is within or outside territorial waters during the laying or repair of electronic communications cable, which displays an international sign or other signal that indicates this, other ships that see or can see this sign shall maintain a distance of no less than one quarter of a mile from that ship. Nets and other fishing gear shall be kept at the same distance. Fishing boats shall however have 12 hours notice to remove fishing gear deployed in the sea.

Should a buoy have been anchored for the laying or repairing of a submarine cable, vessels shall make sure they and their fishing gear is no less than one-quarter mile from the buoy. If a vessel has been forced to jettison an anchor or sacrifice nets or other fishing gear in order to avoid damaging a submarine cable, it may claim damages from the owner of the underwater cable, provided the threat of damage was not caused by the negligence of the vessel's managers.

If possible, the crew shall immediately enter in the log a report of the damage, which the manager of the vessel shall confirm. In addition, the owner of the submarine cable or representative of the owner shall be notified of the incident as soon as possible.

■ *Article 87 Security interests when deploying electronic communications networks*

When developing, building and operating electronic communications networks in Icelandic jurisdiction, measures shall be taken to respond to risk factors that relate to critical public and security interests.

If ECOI considers there to be a risk that mobile networks at a national level or could become very dependent on equipment from one manufacturer when one considers the equipment of all electronic communications undertakings as a whole across the country, the Authority is authorised on the basis of security interests, to make a licence pursuant to article 27 conditional on contributing to variety in types of equipment, or to include such conditions in rules regarding the notification of wireless transmission equipment pursuant to paragraph 3 of article 27, or to take other appropriate measures.

Having received opinions from the ministers responsible for foreign affairs and defence, civil defence and law enforcement, the minister can prescribe in a regulation that equipment in specific parts of national electronic communications networks that are considered sensitive in the context of public interests or national security, shall wholly or partially be from a manufacturer in a state with which Iceland has security cooperation or in a state within the EEA. In a regulation pursuant to clause 1, the minister can furthermore authorise the use of equipment from other states, if it has been endorsed for comparable usage by states with whom Iceland has defence cooperation.

An opinion pursuant to paragraph 3 is exempt from the rights to information of the public and parties to the case, pursuant to Information Act and Administrative Act. The minister that provides an opinion can waive confidentiality from the opinion if it is considered that security interests no longer prevent publishing or handing over the information.

Chapter XIII Personal privacy, electronic communications confidentiality, assistance with the investigation of crimes, etc.

■ *Article 88 Confidentiality of electronic communications*

Any kind of processing of electronic communications, including storage, listening, recording or interception is unauthorised, unless this is done with informed consent of a user or according to legal authorisation.

The use of any kind of system and equipment, including software, which collects and/or stores information about activities or communications of user in his terminalequipment, provides access to information stored in his terminal device or monitors his activities is unauthorised, unless according to informed consent of the user or according to legal authorisation. Despite this, the use of such equipment is authorised to attain access to information and/or to technical storage for a lawful purpose and with the knowledge of the user in question.

All parties that work at an electronic communications facility, whether they are employees of electronic communications undertakings or of others, are obliged, both while they are engaged in such work and subsequent to termination of this work, to maintain confidentiality towards unauthorised parties regarding everything that passes through the electronic

communications facilities, whether this is the contents of messages or conversations or about the parties between whom electronic communications have taken place. No one who works at an electronic communications facility, on an electronic communications network or with electronic communications service may conceal messages, data, images or other signals that are submitted for electronic communications, nor assist others in such activities.

A party who by chance, mistake or without specific authorisation, receives telephone messages, images or other electronic communications signals and symbols or listens to telephone calls may not make a record of such or make use of it in any manner whatsoever. He is furthermore obliged to notify the sender that information has only been received by him. It is mandatory to respect full confidentiality in such instances.

■ Article 89 *Data on electronic communications*

Traffic data relating to users that is processed and stored by electronic communications undertakings must be destroyed or made anonymous once it is no longer needed for the purpose of transmission of electronic communications.

Traffic data necessary for the purposes of users' billing and interconnection payments may be stored until the end of the period during which the bill may be challenged or until it becomes obsolete.

Despite the provisions of paragraphs 1 and 2, electronic communications undertakings shall on behalf of investigations of criminal cases, and of public security, preserve minimal records of data on electronic communications of users for six months. Minimum records shall ensure that an electronic communications undertaking can provide information on which of its customers was the user of a specific telephone number, IP address or user name, and furthermore be able to give information on all connections that the user has made, the dates, with whom the connection was made and data transmission to the user in question, and also the telephone number that the specific customer had during a given period of time. An electronic communications undertaking shall ensure custody of the above specified data and is unauthorised to use or deliver the information in question to a party other than the police or prosecuting authority in accordance with the provisions of article 92. It is mandatory to destroy traffic data on expiry of this period of time, as long as there is no need for the data on the basis of paragraph 2.

If a user has given his/her consent, an electronic communications undertaking may process the data referred to in paragraph 1, for the purpose of marketing electronic communications or the provision of value-added services to the extent necessary for such services or marketing. This consent may be withdrawn at any time.

A service provider must inform the users in advance of the types of traffic data which are processed and of the duration of such processing.

Processing of traffic data as provided for in this article must be restricted to persons acting under the authority of electronic communications undertakings who handle billing or traffic management, customer enquiries, fraud detection, marketing electronic communications or providing a value-added service, and must be restricted to what is necessary for the purpose of such activities.

■ Article 90 *Information on location of equipment*

Data on location of equipment in a public electronic communications network or public electronic communications service may only be processed if it has been made anonymous or with the consent of the users, see however article 98.

■ Article 91 *Recording of telephone calls*

The party to a telephone call that wishes to record the call shall at the beginning of the call notify the opposite party of such intent..

The party it is however not obliged to explicitly notify about the recording of a telephone call when one can unequivocally assume that the opposite party of the call is aware of the recording.

Despite the provisions of paragraph 1, public institutions or undertakings that provide service to them, are authorised to record telephone calls that they receive where such recording is a normal element of administrative operations and necessary for national and public security. The organisation of the recording and its notification to the public and to employees of the institution, shall comply with conditions set by the Data protection Authority. Processing of recordings pursuant to this article shall be in accordance with the provisions of the Act on Data Protection and the Processing of Personal Data..

■ Article 92 *Investigation of criminal cases*

An electronic communications undertaking is obliged to accede to police instructions for assistance in the investigation of a criminal case, where these instructions are supported by a court order or legal authorisation. Electronic communications undertakings shall make rules of procedure for response to requests for police access to users' personal data.

Without the prior court order, it is unauthorised to allow unauthorised parties to see messages, other documents or logs of transmissions that have passed through an electronic communications facility, or to listen to electronic communications conversations or to record them. An electronic communications undertaking is however justified and obliged to provide the police, for the purpose of investigation of a criminal case, with information on who is the registered user of a specific telephone number and/or user of an IP address, and also information on which telephone number a specific customer had during a specific period of time. An electronic communications undertaking is obliged to accede to a police demand that data is delivered in a format pursuant to international criteria. Police access to information on electronic communications shall, in other respects be conducted pursuant to the Code of criminal procedure.

For the purpose of investigation of the case, the police are authorised to instruct an electronic communications undertaking to immediately save digital data, including data on electronic communications traffic. Police instructions may only apply to data that already exists. The instructions shall state which data shall be saved and the duration for which it should be preserved, which may, however, not be longer than 90 days.

Employees of electronic communications undertakings are bound by confidentiality on all measures taken according to this article. Confidentiality still applies after termination of employment. Electronic communications undertakings shall request security accreditation from the police for the electronic communications undertaking's employees who handle connections for police phone interception. In this connection, the police are authorised, having received written agreement from the relevant electronic communications undertaking employee, to gather information about his background and criminal record, such as from police records, criminal records or from other official documents. Before the police complete their investigation, the person being investigated shall be enabled to present his views. He also has a right to grounds if the police decide to deny security accreditation. A police decision to deny security accreditation is subject to appeal to the minister pursuant to the provisions of the Administrative Procedures Act.

The minister can issue a regulation on the obligations of electronic communications undertakings with respect to the preservation of information and police access to electronic communications transmissions and to information pursuant to this article.

■ Article 93 *Telephone directory information*

End users of number-related electronic communications service have the right to decide whether their personal data is registered in a number and address registry of an electronic communications undertaking, which is used for public printed or electronic telephone

directories or for telephone number information services . Electronic communications undertakings that allocate numbers shall inform end-users about their rights in this respect, about the personal data involved and processing of that data.

The personal data that an electronic communications undertaking shall record for this purpose is limited to personal data that is needed to identify an end user unless the end user has given informed consent to the contrary. An electronic communications undertaking is obliged to comply with demands from the end user that a directory indicate that the information listed there may not be used for direct marketing or that an address be partially or fully omitted. Before personal data on an end user is listed in a public telephone directory or used for information service about telephone numbers, the end user shall have access to the data. It is not authorised to collect costs for the rights of an end-user pursuant to this paragraph and to paragraph 1.

ECOI may require all electronic communications undertakings assigning telephone numbers to their users, to agree to requests to provide the data in question in such format as the parties agree upon, including computer-readable format, on terms which are fair and based on cost plus a reasonable markup. It is not authorised to use the data for any purpose other than to publish a telephone directory or for telephone number information services.

ECOI issues rules in other respects about registration of end users that have been allocated numbers in fixed networks and mobile networks. In the case of mobile phone cards which are not registered to a name, the Authority is authorised to issue rules on the registration in cooperation with the emergency service number operator , the police and with mobile phone operators, in order to facilitate increased security in the use of mobile phones.

■ Article 94 *Unsolicited electronic communications*

The use of automated calling systems, facsimile machines, email, or any other kind of electronic messaging for direct marketing is only allowed if the end user has given prior consent.

Notwithstanding the provisions of the paragraph 1, email addresses may be used for direct marketing of own goods or services if customers are given the opportunity to object to such use of addresses free of charge when they are listed and similarly each time a message is sent, if the customer has not initially refused such use.

Apart from that provided for in the paragraphs 1 and 2, unsolicited electronic communications in the form of direct marketing are not allowed to end users who do not wish to receive these communications.

Despite the provisions of paragraphs 1-3, it is authorised to use public email addresses of undertakings and institutions, where they are available, for direct marketing of goods and service.

The sending of electronic mail for purposes of direct marketing, where the name and address of the party responsible for the marketing is not clearly indicated, shall be prohibited.

Users who use public telephone services as part of their marketing must respect designations in a telephone directory indicating that the user in question does not wish to receive such calls to his number. An end user has the right to be aware of where the information came from, that is behind the telephone call.

Chapter XIV Emergency communication. Emergency and security electronic communications. Electronic communications in times of crisis

■ Article 95 *Reliability of emergency and security of electronic communications*

The provisions of articles 78-81 apply to all electronic communications networks that are used for emergency and safety electronic communications.

The minister can prescribe in a regulation, increased requirements regarding the organisation of network and information security and the arrangement for risk management of emergency

and safety electronic communications and also for the electronic communications networks that are used for emergency and safety electronic communications, among other things with regards to:

- a. proportional uptime of the system on an annual basis, itemised by differing system elements;
- b. criteria for categorisation of electronic communications locations on the basis of security considerations;
- c. measures to ensure security in the relevant category, among other things with respect to reserve routes and minimum reserve power in batteries or reserve generators itemised by varying categories for electronic communications locations;
- d. requirements for makes and types of electronic communications equipment along with requirements made of equipment manufacturers;
- e. organisation of internal control;
- f. notifications to ECOI on security incidents;
- g. audits and tests by ECOI and access for the Authority to information;
- h. participation in harmonisation of electronic communications undertakings and ECOI with respect to security and civil protection, and
- i. conditions for cooperation between operators of emergency and safety electronic communications systems with other electronic communications undertakings on the operation of individual electronic communications locations or system elements.

■ Article 96 *Emergency communications*

The number 112 shall be reserved for emergency and safety services and may not be used for any other purpose. No charge may be made for calls to the emergency number 112, including gathering of location information. Electronic communications undertakings are obliged to transfer calls to the 112 number along with associated data, independent of electronic communications networks, agreements on roaming between electronic communications undertakings and credit balance of users.

■ Article 97 *Suggestion line for missing children and helpline for children*

The number 116000 shall be used for a tip-off line for notifications about missing children and the number 116111 shall be used for a children's helpline. No charge may be made for calls to the numbers 116000 and 116111, including gathering of location information. Electronic communications undertakings are obliged to transfer calls to the 116000 and 116111 numbers along with the associated data, independent of electronic communications networks, agreements on roaming between electronic communications undertakings and credit balance of users.

■ Article 98 *Information on location of equipment in cases of emergency*

Despite the provisions of article 90, electronic communications undertakings shall, without the consent of users, send location data of users, to the extent that this is technically possible, to undertakings or institutions handling emergency services and are recognised as such, including the police, ambulance services and fire brigades. The use of the information is only authorised for the purpose of locating emergency telephone calls or user equipment in instances where the police consider that the life of the user or of others is in immediate danger and that the information it is necessary to avert the danger.

■ Article 99 *Civil protection warning system*

Electronic communications undertakings that operate mobile networks or provide mobile network service, shall, at the request of the Department of Civil Protection and Emergency Management, or of another competent official response party, send warnings by mobile phone or other network connected equipment on imminent or existing emergency situation, without charge. Electronic communications traffic carrying such warnings shall enjoy priority in public mobile communications networks.

■ Article 100 *Electronic communications in times of crisis and emergency instances*

Pursuant to a decision by the government, the minister may prescribe the stopping or limiting of electronic communications that are considered a danger to national security or public security.

In emergencies, such as during natural catastrophes, the minister may, at the request of the National Police Commissioner prescribe restrictions on electronic communications which can interfere with emergency and security electronic communications. In the same manner instruction may be given that a specified electronic communications facility shall be taken into the service of rescue operations and new electronic communications facilities installed. In imminent, or existing disruption of service in electronic communications that covers a large area of the country or communications to a significant number of users, such that an emergency situation could or has been created, the minister may prescribe measures to maintain operational continuity of the service until the emergency situation has been resolved. Should payments be considered for measures adopted because of paragraphs 2 and 3, they will be paid from the treasury, subsequent to an assessment by ECOI.

Chapter XV Instructions and withdrawal of rights civil fines and penalties

■ Article 101 *Instructions on remedies, withdrawal of rights and authorisation to halt operations*

Electronic communications undertakings that have the rights to use frequencies and numbers shall at the request of ECOI pursuant to the Act on ECOI, provide the Authority with information necessary to ascertain whether the conditions for general authorisations or imposed obligations pursuant to Chapters VIII-X, are being complied with.

Should ECOI come to the conclusion that an electronic communications undertaking is not complying with the conditions of general authorisation, with conditions related to rights or with decisions made by the Authority, it shall notify the electronic communications undertaking about this conclusion and give the undertaking the opportunity to present its views or to remedy shortcomings within one month from the date of the notification or shorter time to which the undertaking agrees, or that ECOI prescribes in the case of repeated breaches or a longer time agreed by the ECOI.

Should the electronic communications undertaking not desist from its breaches within a specified time limit, ECOI can take appropriate measures pursuant to paragraph 5 of article 102, or impose daily fines in accordance with article 19 of the Act on ECOI no. 75/2021. The electronic communications undertaking shall be informed of the Authority's decision along with the grounds for the decision and shall be given reasonable notice to respond.

In the case of serious or repeated violations of the requirements for a general authorisation or conditions connected to rights or decisions made by ECOI and if measures to ensure compliance with the law have failed, ECOI may suspend an electronic communications undertaking's network operations or service or revoke its rights temporarily or permanently. ECOI may, if there is evidence of violation of the requirements for general authorisations or conditions connected to rights or decisions of ECOI which result in immediate danger to public health or safety, or could create serious financial or operating difficulties for other electronic communications undertakings or users of electronic communications networks or services, make a provisional decision to improve the situation prior to making a final decision. The electronic communications undertaking concerned shall, following a provisional decision, be granted an opportunity to express its opinions and suggest improvements. If appropriate, ECOI may confirm its provisional decision.

■ Article 102 *Compliance authority for unsolicited electronic communications*

If this constitutes a breach of article 94, the provisions of article 20 a and article 20 b paragraph 2, article 21 c, articles 22-25, article 25 a and article 27 of the Act on monitoring of

business practices and marketing, no. 57/2005, on case procedure and ECOI authority to conduct an on-site audit and sample purchase, adopt measures, impose fines and daily fines and demand a restraining order, shall apply.

Decisions by ECOI pursuant to paragraph 1 are appealed to the Appellate Committee for Electronic Communications and Postal Affairs.

■ Article 103 *Civil fines*

ECOI can impose civil fines on electronic communications undertakings, legal entities and individuals who breach the following provisions of this Act, and of regulations issued on the basis of this Act:

- a. conditions of general authorisation pursuant to articles 8 and 9;
- b. conditions for use of frequencies and numbers, pursuant to articles 16 and 22;
- c. rights and obligations for access to facilities, networks or service or interconnection and operational harmonisation of networks pursuant to articles 34-36 and 38-41;
- d. obligation for confidentiality, pursuant to article 42;
- e. obligations that have been imposed on an electronic communications undertaking with significant market power, pursuant to articles 46-52, 56 and 61;
- f. obligations that an electronic communications undertaking with significant market power has undertaken in connection with joint investment pursuant to article 55, separation of operations pursuant to article 56, obligations pursuant to article 46 and the obligation procedure pursuant to article 58;
- g. the duty of the wholesale undertaking to inform about changes to circumstances pursuant to paragraph 3 of article 59;
- h. The duty to inform and other rights and obligations with respect to transfer from older electronic communications networks pursuant to article 60;
- i. provisions on maximum price and other rights and obligations with respect to call termination, roaming service and cross-border electronic communications, pursuant to articles 53 and 54;
- j. conditions for separation of accountancy of electronic communications operations from concessionary operations pursuant to article 10;
- k. provisions that relate to consumers rights pursuant to article 68, 69, 71-74, 76 and 77;
- l. provisions that relate to security of information, electronic communications networks and electronic communications service pursuant to article 78, 80 and paragraph 1 of article 81;
- m. personal privacy, confidentiality of electronic communications and assistance with the investigation of crimes pursuant to Chapter XIII;
- n. rules that apply to finishing of interior electronic communications cabling, pursuant to article 25;
- o. provisions that relate to electronic communications network equipment, pursuant to article 24, wireless transmission equipment, pursuant to article 27, and electronic communications equipment in vehicles, pursuant to article 28;
- p. basic requirements for wireless electronic communications equipment, pursuant to article 26, harmonisation of equipment pursuant to article 30, obligations of parties that deal with marketing pursuant to article 31 and rules on monitoring of marketing of equipment pursuant to article 33;
- q. protection of electronic communications facilities pursuant to article 86.
- r. The duty to deliver adequate and correct information on development plans pursuant to article 11 of the Act on ECOI no. 75/2021, where they have been delivered as a result of serious negligence or intent, or
- s. Obligation to deliver correct, adequate and revised information to ECOI, pursuant to paragraphs 1 and 2 of article 15 of the Act on ECOI no. 75/2021.

Civil fines can be up to 4% of total turnover of the previous operational year for each electronic communications undertaking or other undertaking complicit in the breach. For individuals, the fines can be from ISK 10,000 to ISK 10,000,000. When deciding amounts of fines, consideration shall be given to the nature and scope of breaches, the duration of the breaches and whether they are repeated. Having been decided, civil fines are enforceable and accrue to the treasury, having deducted collection costs. If a civil fine is not paid within one month from the ECOI decision, penalty interest shall be paid on the amount of the fine. The decision and calculation of penalty interests are pursuant to legislation on interest and price indexation.

Civil fines shall be imposed without regard to whether the legal infringements result from intent or negligence. A decision to fine may be waived if the breach is considered insignificant or for other reasons there is considered to be no need for fines to support implementation of the provisions of this Act.

Decisions by ECOI may be appealed to the Appellate Committee for Electronic Communications and Postal Affairs.

ECOI authority to impose civil fines pursuant to this Act become void when five years have passed from the time that the behaviour was discontinued. The period of notice pursuant to item 1 is interrupted when ECOI notifies a party of the start of an investigation of an alleged breach. The interruption of notice has legal force for all parties involved in the breach.

■ Article 104 *Penalties*

Breaches committed with intent of the provisions of this Act that are specified in items d, e, f, m and q of paragraph 1 of article 103 and in rules issued on the basis of these items are subject to fines or imprisonment up to two years if breaches are serious and repeated.

Violations due to negligence shall only be liable to fines.

If a breach of the provisions of this Act specified in item m of paragraph 1 of article 103, is committed for gain for the party committing the breach or for another, this may be penalised with imprisonment up to three years.

If a breach pursuant to paragraphs 1 and 2 is committed in the operations of a legal entity, the legal entity may be fined pursuant to Chapter II of the Penal Code no. 19/1940.

An attempt and complicity in breaches pursuant to paragraphs 1 and 2 is punishable pursuant to Chapter III of the Penal Code no. 19/1940.

Electronic communications equipment that has been operated without authorisation may be seized in cases referred to the police, pursuant to article 105, see article 69 of the Penal Code no. 19/1940.

■ Article 105 *Reporting cases to the police*

Breaches of this Act and of rules issued on its basis, are only investigated by the police, subsequent to a charge from ECOI or from a victim.

In the case of serious breaches, ECOI is obliged to refer them to the police. A breach is considered serious if it concerns significant amounts of money, if the breach is committed in a particularly culpable manner or under such circumstances that significantly increase the criminality of the breach. ECOI can furthermore, at any stage of the investigation whatsoever, refer a breach of this Act to the police for investigation. Care shall be taken to be consistent when resolving comparable cases.

Should a breach of this Act be subject to penalties for an individual and a legal entity, ECOI shall assess, having mind to the seriousness of the breach and to legal enforcement considerations, whether to refer the case to the police in part or as a whole.

A referral from public administration shall be accompanied with copies of documentation that support suspicion of a breach. The provisions of Chapters IV-VII of the Administrative Procedures Act no. 37/1993, do not apply to a decision to refer the case to the police.

If the prosecutor deems there are no grounds for bringing a court case for alleged punishable behaviour which is furthermore subject to administrative penalties, he can send the case concerning a breach of this Act and related documentation to ECOI for proceedings and decision.

■ **Article 106** *The right to not incriminate oneself*

In a case directed at an individual that can be resolved with the imposition of civil fines or a referral to the police, the party under reasonable suspicion of having breached the law, can refuse to answer questions or provide documentation or items unless it is possible to exclude the possibility that they could be significant with regards to a decision on his breach. ECOI shall inform the suspect of this right.

Chapter XVI Entry into force, etc.

■ **Article 107** *Authority for regulation*

The minister may issue a regulation on more detailed implementation of this Act.

■ **Article 108** *Adoption*

This Act constitutes the adoption of the Directive of the European Parliament and Commission (EC) 2018/1972 from 11 December 2018 on establishing the European Electronic Communications Code, which was adopted in the agreement on the EEA with the decision of the joint EEA committee no. 275/2021 from 24 September 2021, with those amendments and additions resulting from Annex XI of the agreement, Protocol 1 on horizontal adaptations to other provisions of the agreement.

■ **Article 109** *Entry into force*

This Act shall enter into force on 1 September 2022. ...

Despite the provisions of item 1 of paragraph 1, the provisions of paragraph 4 of article 86 enter immediately into force.

Despite the provisions of item 1 of paragraph 1, electronic communications undertakings, that have been notified to ECOI and registered in the duration of the older legislation on electronic communications, retain their registration with the entry into force of this Act.

Despite the provisions of paragraph 1, the provisions of the Electronic Communications Act no. 81/2003, on market analysis and decisions on obligations, that are in progress, but not completed with the entry into force of this Act, and where a draft of the relevant market analysis and/or draft of planned obligations have been published for consultation pursuant to article 24 of the Act on ECOI no. 75/2021, prior to the entry into force of this Act, apply until 31 December 2022.

110. gr. Amendments to other Acts ...

Temporary provisions

I.

Rules and regulations pursuant to this Act shall be issued as soon as possible. Until they have been confirmed, those rules and regulations that now apply to the matters covered by the Act shall be fully in force, insofar as those provisions do not contravene the provisions of this Act.

II.

All obligations that have been imposed on electronic communications undertakings pursuant to Chapter VII of the Act on ECOI no. 81/2003, and that are in force with the entry into force of this Act, shall be maintained until review of the obligations has taken place subsequent to completion of market analysis.

III.

When allocating and renewing frequency rights until 31 December 2023, the following fees shall be collected:

- a. ISK 3,500,000 for each allocated MHz of frequency band on 880-915 and 925-960 MHz frequency bands;
 - b. ISK 1,000,000 for each allocated MHz of radio spectrum on 1710- 1785/ 1805-1880 MHz and 1920–1980/ 2110-2170 MHz frequency bands;
 - c. ISK 350,000 for each allocated MHz of radio spectrum 3.4-3.8 GHz frequency bands.
- The fee is on the basis that the frequency rights are issued for a period of 20 years. If frequency rights are allocated for a shorter period of time, payment shall be made proportionately. The fee is paid to the Electronic Communications Fund.