

**The National Council of the Slovak Republic
Act No. 610
of 3 December 2003
on Electronic Communications**

**PART ONE
BASIC PROVISIONS**

Section 1

Subject and Purpose of the Act

(1) This Act governs the conditions for provision of electronic communications networks and electronic communications services, conditions for using of radio facilities, state regulation of electronic communications (hereinafter as “regulation”), rights and obligations of undertaking and users of electronic communications networks and electronic communications services, protection of these networks and services, effective use of the frequency spectrum and numbers, rights and obligations to real estates of third parties, protection of privacy and data and powers of state administration authorities in the sector of electronic communications.

(2) The purpose of this Act is to create, in the public interest, conditions for development of competition in the field of electronic communications in the territory of the Slovak Republic based on the modern and quality infrastructure, to reach effective economic competition (hereinafter as “competition”) in provision of electronic communications networks and electronic communications services and to support interests of electronic communications users.

(3) This Act transposes the legal acts of the European Communities listed in Annex No. 1.

Section 2

Electronic Communications

(1) Electronic communications ensure the exchange or transmission of information, between a finite number of users realised via electronic communications networks. Electronic communications do not include information conveyed as part of television and radio broadcasting to the public over an electronic communications network, except for information related to the identifiable user receiving the information.

(2) Electronic communications are installation, operation and provision of electronic communications facilities, electronic communications networks and electronic communications services.

Section 3

Electronic Communications Facilities

(1) Telecommunications facility means a technical facility for emission, transmission, routing, reception, switching or processing of signals and information in the form of

pictures, sound or data (hereinafter as “signal”) by wire, radio, optical or other electromagnetic means, as well as associated facilities.

(2) Radio facility means a telecommunications facility or a technical part thereof capable of communication by means of the emission, reception or emission and reception of radio waves in the frequency spectrum allocated to terrestrial or space radiocommunications.

(3) Terminal equipment means a telecommunications facility or a technical part thereof which enables communication and is intended to be connected directly or indirectly to network termination points.

(4) Associated facilities mean technical facilities and other equipment associated with a network, which enable or support the provision of services via that network or service. They include conditional access systems and electronic programme guides.

(5) Harmful interference means interference which endangers the functioning of a radionavigation service or of other safety services, or otherwise seriously degrades, obstructs or repeatedly interrupts a radiocommunications service defined in the international agreement[1]) binding upon the Slovak Republic and operated in accordance hereto.

(6) Public pay telephone means a publicly available telephone, for the use of which may be paid especially by coins, credit cards, debit cards or pre-payment cards, including cards for use with dialling codes.

(7) Radio waves means electromagnetic waves of the frequency from 9 kHz to 3 000 GHz, propagated in space without artificial guide.

Section 4

Electronic Communications Networks

(1) Electronic communications network (hereinafter as “network”) means a functionally interconnected transmission systems and, where applicable, switching and routing equipment, as well as other resources which permit the conveyance of signals by wire, radio, optical or by other electromagnetic means, including satellite networks, circuit- and packet-switched fixed networks, including Internet and mobile terrestrial networks, power distribution networks to the extent that they are used for transmission of signals, networks for radio and television broadcasting and cable distribution systems, irrespective of the type of information conveyed.

(2) Public network is fully or mostly used for provision of publicly available electronic communications services.

(3) Public telephone network is used for provision of publicly available telephone services; it allows for transmission of voice communication between network termination points or other forms of communication such as facsimile or data transmission.

(4) Interface means:

a) a network termination point which is a physical point at which a user is provided with connection to public network and, in case of networks including switching or routing, this point is defined by a specific network address, which can relate to the users' telephone number, and its technical specifications,

b) an air interface specifying the radio path between radio facilities, and its technical specifications,

c) an interface for interconnection of networks or connection of special networks, and its technical specifications, or

d) an application program interface, which includes software interfaces between applications provided by operators of radio and television broadcasting or service providers and the resources in digital television equipment designed for digital television and radio services, and its technical specifications.

(5) Provision of network means the establishment, operation, control and making available of such a network.

(6) Geographic number means an assigned number from the national numbering plan, where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point.

(7) Non-geographic number means an assigned number from the national numbering plan where no part of its structure contains geographic significance; it includes mobile, freephone and premium rate numbers.

(8) Undertaking, for the purposes of this Act, means every person that is authorised to provide network, service or network and service in the field of electronic communications, regardless of the legal form and way of financing.

(9) Access means the making available of facilities, electronic communications services or facilities and electronic communications services to another undertaking in order to provide electronic communications services. It includes mainly:

a) access to the local loop and to facilities and services necessary to provide services over the local loop,

b) access to fixed and mobile networks, in particular to roaming service,

c) access to number translation facilities or to systems offering equivalent functionality,

d) access to relevant software systems including operational support systems,

e) access to infrastructure including buildings, premises and parts of network lines,

f) access to conditional access systems for digital television services,

g) access to virtual network services.

(10) Interconnection means the physical and logical linking of public networks used by the same or a different undertaking enabling the users of the network of one undertaking to communicate with users of the same or another undertaking, or enabling the access to electronic communications services provided by another undertaking. These services may be provided by undertaking or by third party that have access to the public network. Interconnection is a specific type of access between providers of public networks.

(11) Local loop means a physical link connecting the network termination point at the subscriber's premises to the main distribution frame or equivalent facility in the fixed public telephone network.

(12) Unbundled access to the local loop means full unbundled access or shared access to the metallic twisted pair of the local loop without the change in the ownership of the local loop.

(13) Full unbundled access means access to the metallic twisted pair of the local loop or local sub-loop, which shall entitle another undertaking to use the full frequency spectrum of the metallic twisted pair of the local loop. Local sub-loop is a part of the local loop connecting the network termination point at the subscriber's premises to a specified access point of the local loop.

(14) Shared access to the metallic twisted pair of the local loop means access to the local loop or local sub-loop, which entitles another undertaking to use the part of frequency spectrum which is not used for the telephone service while the voice band frequency spectrum remains available to the undertaking with significant market power on the relevant market.

(15) Lines of networks (hereinafter as "lines") mean a part of the network. Lines shall be telecommunications constructions and public technical infrastructure[2]), particularly aerial and underground lines, long distance and local transmission systems, cable distribution systems and radio links, including their accessories and associated facilities such as distributors, amplifiers, masts, carriers, supporting and demarcation points, cable ducts, cable chambers and conduits.

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

(17) Demarcation points of the underground line means a sign, milepost or post determining the position of cable sets, cable crossings with roads, railways, water courses, positional changes of cable routes in municipalities or in free terrain.

Section 5

Electronics Communications Services

(1) Electronic communications service (hereinafter as "service") means a service usually provided for remuneration which consists wholly or mainly in the conveyance of signals on networks, including telecommunications services and transmission services in networks used for radio and television broadcasting. The service is not the provision of content or exercising editorial control over the content transmitted using networks and

services; it does not include information society services[3]), which do not consist wholly or mainly in the conveyance of signals on networks.

(2) Public telephone service means a publicly available service for originating and receiving national and international calls and for access to emergency calls through one or more numbers from the national or international numbering plan.

(3) Call means an electronic communication connection established by means of a public telephone service allowing two-way communication in real time.

(4) Value added service means a service, which requires the processing of traffic data or location data other than traffic data necessary for the transmission of a communication or the billing.

(5) User means a natural person or legal entity that uses or requires provision of a publicly available service. For the purposes of this Act, a subscriber and end-user is also considered to be a user, unless stated otherwise hereinafter.

(6) End-user means a person that uses or requires a publicly available service and does not provide this service and does not provide another services through this service. The end-user is a consumer[4]) and in case of radio and television programme services also a listener and viewer

(7) Subscriber means such end-user that concluded a Contract on Connection with an undertaking providing public services.

PART TWO

REGULATION OF ELECTRONIC COMMUNICATIONS

CHAPTER ONE

POWERS OF STATE ADMINISTRATION AUTHORITIES

IN THE FIELD OF ELECTRONIC COMMUNICATIONS

Section 6

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

a) Ministry of Transport, Posts and Telecommunications of the Slovak Republic (hereinafter as the "Ministry"),

b) Telecommunications Office of the Slovak Republic (hereinafter as the "Office").

(2) The Ministry:

a) elaborates proposals of the national policy in electronic communications and submits them to the Government of the Slovak Republic (hereinafter as the "Government") for approval,

b) elaborates a proposal of the national table of frequency allocations and submits it to the Government for approval,

c) provides for international relations in the field of electronic communications at the level of the European Union, international governmental organisations and international non-governmental organisations.

(3) The Office is the national regulatory authority and pricing authority[5]) in the sector of electronic communications which, pursuant to this Act:

a) performs regulation,

b) provides for international relations in the field of electronic communications at the level of regulatory authorities,

c) co-operates with the Ministry in elaboration of the proposal of the national table of frequency allocations and performs management of the frequency spectrum,

d) protects the interests of end-users with regard to quality and prices of services,

e) fulfils obligations supporting competition, development of common market of the European Union, interests of all persons of the European Union member states in the territory of the Slovak Republic, access to networks, interoperability of networks and services and protects freedom of carrier selection applying technical standards[6]),

f) issues generally binding legal regulations within the scope of this Act,

g) publishes the Journal of the Telecommunications Office of the Slovak Republic (hereinafter as "Journal"),

h) provides for its information obligations toward the National Council of the Slovak Republic (hereinafter as "the National Council") and the European Commission,

i) sets payments,

j) leads out-of-court dispute resolution,

k) provides information to end-users with respect to services, performs users researches, publishes them and uses them in its activities,

l) fulfils tasks related to limitation of proprietary rights to real estates in respect of using of real estates for the purposes of service provision and tasks related to limitation of proprietary rights to movable assets by limitation or ban on using transmitting telecommunications facilities and circuits in times of war or belligerency[7]),

m) executes supervision and imposes sanctions,

n) executes other activities.

(4) The Office shall be obliged to perform all its activities and publish its decisions in line with the principles of efficiency, objectivity, transparency, non-discrimination, adequacy and legitimacy. In execution of its activities the Office may use also services of another persons. The Office shall publish its decisions, generally binding legal regulations and information that contribute to open and functional competitive market in the Journal and, for information purposes, on the Internet, while it provides for data protection.

(5) Payments pursuant to Subsection 3, Letter i) are administrative charges imposed by the Office to undertakings providing networks, services or networks and services on the basis of general authorisation and fees for the right of use of numbers or frequencies and identification codes imposed by the Office on the basis of individual authorisation for use of numbers or individual authorisation for use of frequencies and identification codes. The amount of administrative charges under Section 13 Subsection 2 Letter e) shall not exceed the amount of essential costs of the Office on administration, control of rights and obligations resulting from these authorisations and obligations pursuant to Sections 18 to 27. When stipulating the amount of payments for individual undertakings, the Office shall act in accordance with Subsection 4 and imposes the payments with regard to by minimising excessive costs. Payments shall include also costs of the Office on international co-operation and harmonisation, market analysis, monitoring and control of fulfilment of conditions and other controls over the market. The payments shall be collected by the Office and shall be an income of the state budget.

(6) The Office shall publish the way and method of specifying the administrative charges.

Section 7

(1) The Office is a budgetary organisation[8]) with registered seat in Bratislava. The Office can establish permanent or temporary workplaces outside its registered seat.

(2) The Office is presided by a Chairman who is a statutory body and is elected and recalled by the National Council upon a proposal of the Government.

(3) The Chairman, in time of his absence, is deputised by the Vice-Chairman of the Office. Besides that, the Vice-Chairman fulfils tasks assigned by the Chairman. The Vice-Chairman is appointed and recalled by the Government.

(4) The term of office of the Chairman and of the Vice-Chairman is six years. The same person may perform the office of the Chairman or Vice-Chairman of the Office for a maximum of two consecutive terms of office.

(5) The Government determines the Chairman's Salary and other appurtenances according to the special regulation[9]).

(6) During their term of office the Chairman and the Vice-Chairman shall not:

- a) hold any position in a political party or political movement, or act for their benefit,
- b) hold any position in any other state authority or in a body of a legal entity established by the law as a public institution.
- c) be an employee, an associate or agent of legal entity, member of its statutory body, controlling body, supervisory body, or an employee of a natural person, neither have share on basic property nor have share on voting rights of these persons, neither act for their benefit or detriment, provided these persons are network operator, service provider or network operator and service provider,
- d) undertake or have other gainful employment.

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

- a) expiration of their terms of office,
- b) resigning from their positions,
- c) recalling from their position,
- d) death.

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

(9) The National Council shall recall the Chairman and the Government shall recall the Vice-Chairman, if:

- a) any of the events stated in Subsection 6 took place,
- b) they were lawfully sentenced for an intentional crime, or crime committed due to negligence and directly related with performance of their positions,
- c) they were deprived of their capacity to perform legal acts or if their capacity was limited,
- d) they have not performed their position for a period of at least six consecutive months.

(10) The National Council may recall the Chairman and the Government may recall the Vice-Chairman, if the Office does not fulfil tasks in line with this Act.

Section 8

Co-operation of the Office with Other Authorities, Offices and Operators

(1) The Office shall co-operate mainly:

- a) with the Council for Broadcasting and Retransmission in the field of radio and television broadcasting and retransmission,
- b) with the Antimonopoly Office of the Slovak Republic in issues related to determination of relevant markets (Section 15), analysis of relevant markets in the field of electronic communications (Section 16) and determination of undertaking with significant market power on the relevant market in the field of electronic communications (Section 17),
- c) with operators of special networks in co-ordination of use of frequency spectrum,
- d) with the Slovak Trade Inspection in performance of state supervision over electronic communications,
- e) with the European Commission and national regulatory authorities of European Union member states.

(2) When applying regulatory responsibility of the Office defined by this Act and powers of the Antimonopoly Office of the Slovak Republic governed by a special regulation, the Offices shall exchange information and supporting materials.

Section 9

Information of the Office

The Office shall, upon a written request of the European Commission, provide the European Commission with the information it requires to carry out its tasks. In case the Office provides the European Commission with information previously provided to the Office by an undertaking at the request of the Office, the Office shall inform the undertaking thereof. Information collected by the Office shall be publicly available, except for information, which is subject to business confidentiality[10]).

Section 10

Consultations

(1) Consultations are a mutual exchange of information, standpoints and preliminary negotiations of the Office with undertakings, national regulatory authorities or the European Commission before proceedings and deciding on measures that will have significant impact on the relevant market.

(2) The Office, before the start of proceedings, shall consult its proposed measure in the matter which will have a significant impact on the relevant market, and it shall provide the concerned undertaking at least one month following its publication, for making its statement. The draft measure include in particular definition of the market, findings about significant influence on the relevant market together with designation of an undertaking as a significant market power on that market, imposition, amendment or withdrawal of obligations pursuant to Sections 18 to 24 and 27 and justification of mentioned facts. The Office shall consider the statement of the concerned undertaking in the maximum possible extent.

(3) In case the proposal pursuant to Subsection 2 can have an impact on trade between the European Union member states, the Office shall distribute this proposal with its justification to the European Commission and all national regulatory authorities in the member states of the EU, if it is the case of:

- a) definition of the relevant markets,
- b) procedures related to analysis of the relevant market,
- c) obligations of access to networks and interconnection of networks.

(4) The Office shall consider the statement of the European Commission and national regulatory authorities in the maximum possible extent. After reviewing of the statements, the Office shall start the proceedings or conclude the consultations. The Office shall send the issued decision to the European Commission.

(5) If the decision has an impact on the trade between the European Union member states, and the European Commission in its statement thereto expresses a view that its issuance would be an obstacle for mutual trade within the European Union or expresses serious doubts as to its compatibility with the European Union' legislation, especially with the purpose defined in Section 1, Subsection 2, the Office shall postpone issuance of its decision for two months. In case the European Commission requests the withdrawal of the proposal stating reasons within this period, the Office shall not issue the decision and stop the proceedings.

(6) In exceptional circumstances, where the Office considers that there is an urgent need to act, by way of derogation from the procedure set out in Subsections 2 to 5, in order to safeguard competition and protect the interests of users, it shall immediately issue a provisional measure [11]) or a decision pursuant to Section 15, Subsection 2. The Office shall without delay send this measure or decision, with a rationale, to the European Commission and all national regulatory authorities.

(7) The Office shall publish the results of consultations and a report on procedure pursuant to Subsections 2 to 6.

(8) The Office is the only information point through which all on-going consultations can be entered.

Section 11

Regulation of Electronic Communications

(1) Regulation of electronic communications shall be:

- a) creation of conditions for origination and preservation of competitive environment on the market,
- b) setting conditions for provision of networks and services (Sections 12 to 14),
- c) regulation of competition on the relevant market in the field of electronic communications (Sections 15 to 28),
- d) administration of numbers and frequencies (Sections 29 to 36),
- e) regulation of prices (Sections 22, 23, 26 and 27),
- f) performance of state supervision over the electronic communications (hereinafter as "supervision") (Sections 37 and 38).

(2) In regulation, the Office shall take into account recommendations and guidelines of the European Commission, including technical standards and specifications for networks and services whose list is published by the European Commission. In regulation, the Office must consider technological neutrality of regulation, which neither imposes nor discriminates using of a particular type of technology.

CHAPTER TWO

AUTHORISATION TO PROVIDE NETWORKS AND SERVICES

Section 12

(1) Provision of networks, services or networks and services can be performed only on the basis of a general authorisation. Provision of networks, services or networks and services for which assignment of numbers or frequencies is necessary, can be performed on the basis of an individual authorisation for use of numbers pursuant to Section 31 or the basis of on an individual authorisation for use of frequencies and identification codes pursuant to Section 32. The authorisations shall be granted by the Office.

(2) An authorisation pursuant to Subsection 1 shall not be necessary for special networks except for networks or parts of networks established by radio facilities on frequencies which have not been allocated for this purpose in the national table of frequency allocations.

Section 13

General Authorisation

(1) General authorisation defines rights and conditions for provision of networks, services and operation of radio facilities that can apply to all or to some of them. The obligations imposed pursuant to Sections 18 to 27 and Sections 50 to 54 shall not be affected thereby.

(2) The conditions included in the general authorisation may relate only to the following obligations:

- a) interoperability of services and interconnection of networks,
- b) accessibility of numbers from the national numbering plan for end-users,
- c) environment and territorial planning, as well as requirements and conditions related to the granting of access or use of third party real estates and conditions related to sharing of facilities and co-location, including possible financial or technical guarantees necessary to ensure proper execution of infrastructure works,
- d) financial contributions to the covering of net costs arising at provision of the universal service,
- e) administrative charges,

- f) protection of personal data and privacy that are specific to electronic communications sector,
- g) protection of end-users including conditions specific to the electronic communications sector,
- h) restriction of transmission of signal with illegal content,
- i) information provided by undertakings to the Office upon its request and related to the notification obligation and obligation to provide information in accordance with Section 38,
- j) provision of a facility for tapping and recording of traffic in networks for a state body or body acting in criminal proceedings[12]) and its connection to network at the costs of the undertaking; the technical specification of the tapping facility shall be approved by the Office,
- k) preparation of networks and services for crisis and extraordinary events[13]) for ensuring communication between the crisis management bodies, rescue units of the integrated emergency system and citizens by public broadcasting,
- l) measures for limitation of exposure of persons to electromagnetic fields caused by networks and their facilities as sources of electromagnetic radiation,
- m) access and criteria of imposing obligations pursuant to Sections 18 to 28 for cases when the competition on the relevant market in the field of electronic communications is not efficient,
- n) maintenance of the integrity and infrangibility of public networks in connection with conditions to prevent the electromagnetic interference between networks, services or networks and services pursuant to special regulations[14])
- o) protection of public networks against unauthorised access,
- p) efficient use of the frequency spectrum and avoidance of harmful interference related to the use of frequencies, where their use is not subject to an individual authorisation,
- r) ensuring compliance with technical standards and technical specifications for networks and services.

(3) Conditions listed in the general authorisation shall be objectively justified in relation to the network or service concerned, non-discriminatory, proportionate and transparent.

(4) The Office shall publish a draft of general authorisation for provision of networks, services or networks and services at least 60 days prior the day when it is expected to be published, together with a call for submission of comments and information where and

until when comments can be raised; this period shall not be less than 30 days after publishing of the draft.

(5) The general authorisation shall come into effect on the day of its publishing unless a later effective date is stated therein.

(6) Subsections 4 and 5 shall apply appropriately also to a change or cancellation of the general authorisation.

(7) An undertaking shall have the right to provide networks, services or networks and services, if it meets the conditions of the authorisation and fulfilled the notification obligation pursuant to Section 14. For the capability to provide networks, services or networks and services the date of receiving a sufficient and full notification pursuant to Section 14, Subsections 2 and 3 shall be decisive.

Section 14

Notification Obligation

(1) Undertaking intending to provide networks, services or networks and services shall be obliged to notify the Office of this fact prior to initiation of the provision, if the Office stipulates so in the general authorisation. The notification obligation also applies to the changes or cancellation of the provision of the network, service or network and service.

(2) The notification pursuant to Subsection 1 shall be made in writing and contains the following data:

a) name, surname, and address of the party notifying the Office of network, service or network and service provision if a natural person is concerned, or business name, registered seat and legal form if a legal entity is concerned, or the business name and place of conducting business in case of an entrepreneur,

b) identification number of the notifying party, if assigned,

c) person or persons authorised to act on behalf of the undertaking in the relevant matter and information necessary for efficient contact with these persons,

d) brief description of networks, services or networks and services, including the specification whether the networks, services or networks and services are public or not,

e) expected date of initiation, change or cancellation of the network, service or network and service provision.

(3) Upon delivery of a sufficient and complete notification, the Office shall register the notifying party as an undertaking providing networks, services or networks and services. Should the notification be incomplete, the Office shall return it for completion. The Office shall publish the registration within one week following the delivery of such a notification on the Internet. If requested by the notifying party, the Office shall affirm fulfilment of notification obligation to the undertaking within one week following the delivery of the notification.

CHAPTER THREE

REGULATION OF COMPETITION IN ELECTRONIC COMMUNICATIONS

Section 15

Definition of Relevant Markets

(1) The Office shall define relevant markets in the field of electronic communications (hereinafter as “relevant market”) on the basis of the list of relevant markets and procedures of relevant market analysis recommended by the European Commission in line with principles of assurance of competitive environment and taking into account specific national circumstances, especially geographical ones.

(2) The Office shall continuously supplement or change the list of relevant markets based on instructions and recommendations of the European Commission. The Office shall define the list of relevant markets and its amendments by a decision. The Office shall publish its decision in the Journal and announce it in the Collection of Acts of the Slovak Republic by publishing a notification of the Office of issuance of such a decision.

(3) The Office shall follow the procedure referred to in Section 10 before defining the relevant markets[15]) that differ from those defined in recommendations and guidelines of the European Commission.

(4) The Office shall co-operate with the European Commission in determination of transnational markets according to the requirements of the European Commission.

Section 16

Analysis of Relevant Markets

(1) The Office shall analyse relevant markets at least once in two years. The aim of that analysis shall be to detect whether there is effective competition on the relevant market.

(2) Effective competition is a situation on the relevant market, when none of the undertakings doing business on the given relevant market has significant market power.

(3) An undertaking with significant market power on the relevant market is an undertaking which individually or jointly with other undertakings has such position on the market that it is not exposed to effective competition and its economic influence enables it to behave, in a substantial extent, independently of competitors and users (hereinafter as “SMP undertaking”).

(4) When assessing whether an undertaking has significant market power, the Office shall evaluate particularly the following criteria:

- a) size of the undertaking in relation to the relevant market, as well as changes of its relative share in the course of time,
- b) control over unique facility[16]), scope of restrictions on the entry to the relevant market and the resulting degree of effective competition,
- c) existence of technologically conditioned advantages,
- d) appropriate negotiating power on the side of demand,
- e) access to financial resources,
- f) level of differentiation of services,
- g) economies of scales,
- h) assortment savings from,
- i) degree of vertical integration,
- j) highly developed distribution and sales network,
- k) existence of potential competition,
- l) barriers of the entry to the market,
- m) current status of competition on the relevant market.

(5) SMP undertaking can be considered an undertaking with significant market power also on a closely related market, if the links between the two relevant markets enable transfer of influence from one market to the other market and thus strengthening the market power of the undertaking.

(6) The joint significant market power of two or several SMP undertakings providing networks, services or networks and services on the relevant market can be found also in the absence of structural or other links between them, if the undertakings operate in the market, the structure of which creates conditions for joint co-ordinated behaviour. The prerequisite for joint significant market power is a relevant market having a high degree of concentration and transparency, especially with respect to:

- a) mature market,
- b) stagnant or moderate growth on the demand side,
- c) low elasticity of demand,
- d) homogeneous product,
- e) similar cost structure,
- f) similar market shares,
- g) lack of technical innovations and obsolescent technology,
- h) absence of excess capacity,
- i) considerable barriers to entry to the market,
- j) lack of negotiating power on the demand side,
- k) lack of effective competition,
- l) various kinds of links between the undertakings concerned,
- m) retaliatory mechanisms between the undertakings concerned,
- n) lack or reduced scope for price competition.

Section 17

Determination of a Significant Market Power Undertaking

(1) Where the Office finds out on the basis of an analysis pursuant to Section 16 that there is not an effective competition on the relevant market, after the conclusion of consultations in compliance with Section 10 it shall, by a decision, identify a SMP undertaking and, at the same time, impose in the decision at least one obligation pursuant to Sections 18 to 24 and 27 on the SMP undertaking. These obligations must be based on the detected status and must be justified and appropriate with respect to the purpose and principles of regulation which are a support of effective competition and development of internal market. If there is a SMP undertaking determined on this market, the Office shall let the SMP undertaking retain its existing obligations, change or amend them.

(2) In case the Office on the basis of a market analysis finds out that there is an effective competition on the given relevant market, it shall not impose or maintain in force any obligations pursuant to Sections 18 to 24 and 27. The Office shall cancel the existing obligations in a decision cancelling the designation of the undertaking as SMP undertaking.

(3) The Office shall publish each decision pursuant to Subsections 1 and 2 (Section 6, Subsection 4).

(4) In case the European Commission determines transnational markets pursuant to Section 15, Subsection 4, the Office in co-operation with the relevant national regulatory authorities shall perform analysis of the determined transnational market and decide on possible imposing, maintaining, change or cancellation of the obligations of SMP undertakings pursuant to Sections 18 to 24 and 27.

(5) Consultations (Section 10) on relevant market analysis with regard to imposing, changing or cancelling obligations pursuant to Sections 18 to 24 and 27 are related to the undertaking in relation to which the obligations are imposed, changed or cancelled.

Section 18

Transparency of Access

(1) In order to provide for transparency in relation to access or interconnection, the Office shall be entitled to impose the obligation to publish specific information, especially accounting information, technical specifications, network characteristics, contractual terms and conditions for supply and use of services including prices, on the SMP undertaking. If it is necessary, the Office shall specify the information which the SMP undertaking is obliged to submit to the Office or to publish, it shall set the required level of detail of their content and the way in which the information is to be published.

(2) If the Office imposes the obligation of non-discriminatory approach in relation to access or interconnection on the SMP undertaking, it imposes the obligation to issue a reference offer for access or interconnection and to submit it to the Office for publishing. The SMP undertaking shall do so within 60 days following the date on which the decision on imposition of the specific obligation to submit reference offer for access or interconnection came into force. The reference offer must be transparent in order to ensure that undertakings requesting access or interconnection will not be asked to pay for facilities which are not necessary for provision of the required service. The reference offer must be sufficiently structured and include also a description of individual items, usual points of interconnection, quality, related deadlines and terms and conditions including prices. In order to exercise obligations pursuant to this Act, the Office shall be entitled to

order the SMP undertaking to change the reference offer; the Office may consider the proposed change of the reference offer submitted by the undertaking. The undertaking shall be obliged to submit the amended reference offer to the Office for publishing within 30 days following the date on which the decision issued by the Office came into force.

(3) In case the SMP undertaking was imposed obligations pursuant to Section 21 related to an unbundled access to the local loop, it shall be obliged to issue the reference offer for unbundled access to the local loop and to submit it to the Office for publishing within the deadline set in Subsection 2. The reference offer for unbundled access to the local loop must include conditions stated in Annex No. 2 hereto. The reference offer must not include any prices for network elements or facilities for which the entitled undertaking providing public network, public service or public network and public service had to pay, if they are not necessary for provision of its services.

(4) The Office shall publish the submitted reference offer without undue delay.

Section 19

Non-discriminatory Approach to Access

(1) The Office shall be entitled to impose the obligation of non-discrimination in the matter of access or interconnection of networks on the SMP undertaking.

(2) On the basis of obligation imposed pursuant to Subsection 1, the SMP undertaking shall be obliged to apply comparable conditions under comparable circumstances to other undertakings and provide other undertakings with information and services under the same conditions and of the same quality as if it used them for its own needs or provided them to controlled person or undertaking in which it has right to make co-decision.

Section 20

Separated Records

(1) The Office shall be entitled to impose on SMP undertaking providing access or interconnection the obligation to keep separate accounts in the accounting system for each specific activity related to access or interconnection and to require vertically integrated undertaking to make its wholesale and its internal prices more transparent in order to meet the requirement of non-discrimination pursuant to Section 19 or to avoid giving preference or discriminating some services by redistribution of costs and revenues from other services and among the other services, except for the public telex service and the public telegraph service. The Office shall be entitled to specify the structure of the accounting records and methodology of separate records in the accounting system.

(2) The SMP undertaking shall be obliged to submit, upon the request of the Office, the accounting records, including data on earnings for each relevant market of access and

interconnection for verification of compliance with obligation of Subsection 1. If such information should contribute to an open and competitive market, the Office shall publish it. Upon publishing of information, the Office must pay attention to the right of the SMP undertaking for protection of its business confidentiality.

Section 21

Access to Specific Network Facilities

(1) The Office shall be entitled, in relation to access or interconnection, to oblige the SMP undertaking to meet reasonable and justified request for access to, and use of specific network elements and associated facilities, and a request for interconnection of networks, particularly in cases when it finds out that denial of access or unreasonable terms and conditions would not allow for effective competition on the market for end-users or would not be in their interest. With regard to these obligations the Office shall be entitled to oblige the SMP undertaking to:

- a) give third parties access to specified network elements including unbundled access to the local loop,
- b) provide specified services on a wholesale basis for their further resale by third parties,
- c) not to withdraw access to facilities already granted,
- d) negotiate in good faith with other undertakings requesting access to the network or interconnection the network,
- e) ensure open access to interfaces, protocols and encoding facilities, which are necessary for interoperability of services or virtual networks services,
- f) enable co-location and facility sharing including buildings, spaces and parts of lines,
- g) provide specified services needed to ensure interoperability of end-to-end services to users, including provide of facilities for intelligent network services or roaming on mobile networks,
- h) provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services,
- i) interconnect networks or network facilities.

(2) The Office shall be entitled to supplement the obligations pursuant to Subsection 1 with fulfilment of conditions of fairness, reasonableness, and timeliness.

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

- a) the technical and economic acceptability of using or installing competing facilities in the light of the rate of market development, the method and type of access and interconnection,
- b) the feasibility of providing the required access and interconnection with regard to the capacity available,
- c) the initial investment by the owners of telecommunications facilities and networks in relation to risks involved in making the investment,
- d) the need to safeguard competition in the long term,
- e) the protection of rights of investing undertakings or rights resulting from the intellectual property rights,
- f) the provision of pan-European services.

Section 22

Regulation of Access Prices and Cost Orientation Obligation

(1) Should the Office find out, on the basis of the relevant market analysis, that the lack of effective competition enable the SMP undertaking to require unreasonable prices, it shall be entitled to impose the SMP undertaking, with regard to provision of specific types of access or interconnection on the given markets, to set the prices so that they include only costs connected with provision of access or interconnection and they do not include that costs which do not relate with such provision pursuant to a price calculation method determined by the Office which shall include types of costs and rules for their allocation. The Office shall take into consideration the extent of investments made by the SMP undertaking and reasonable rate of return on the invested capital and the related risks. The Office shall be obliged to ensure that the prescribed return on investment and pricing mechanisms of the SMP undertaking support effective competition and represent a benefit for end-users. The Office designates and publishes the price calculation method and its amendments by decision in the Journal.

(2) Based on the obligation imposed pursuant to Subsection 1, the SMP undertaking shall be obliged, upon the request of the Office, to prove that the prices for services it provided are set in line with Subsection 1. The Office shall be entitled to require from the SMP undertaking justification for the prices or possibly to order their modification while the Office shall be entitled to take account of prices available in comparable competitive markets. For the purposes of price calculation of efficient service provision, the Office shall be entitled to use a particular price calculation method, which may be independent of and different from the method used by that undertaking.

(3) If the Office, pursuant to Subsection 1, determined the price calculation method supporting price regulation, the Office shall publish the description of the price calculation system specifying at least the main cost categories and rules for their allocation.

(4) In case the SMP undertaking is imposed the obligation to use a specific price calculation method pursuant to Subsection 1, a qualified and independent person authorised by the Office shall verify the application of the method. The Office shall publish the results of the verification once per year.

Section 23

Regulation of Services for End-users

(1) Should the Office find out, upon the analysis of the relevant market (Section 16), that there is not effective competition on the markets of public telephone service for end-users and the obligations imposed pursuant to Sections 18 to 22, and 27 have not led to the fulfilment of the purpose in accordance with Section 1, Subsection 2 hereof, the Office shall be entitled, in relation to an SMP undertaking, in order to protect end-user interests and simultaneously promote effective competition, to impose mainly:

a) ban to:

1. require unreasonably high prices,
2. hinder the entry to the market, require unreasonably low prices or hinder the entry to the market and require unreasonably low prices with the aim to eliminate competition,
3. inappropriately prefer a certain group of end-users,
4. bundle provision of services to provision of other services without any reason and authorisation,

b) obligation not to exceed maximum prices for end-users and comply with price regulation with emphasis on cost oriented prices and prices on comparable markets with effective competition.

(2) The Office shall be entitled to oblige the SMP undertaking on the market of services for end-users, on which obligations pursuant to Subsection 1 were imposed, to use a price calculation method encompassing types of costs and rules for their allocation. The Office or a qualified and independent person authorised by the Office shall verify the application of the above-mentioned method. The Office shall publish the results of the verification annually. The Office designates and publishes the cost calculation method and its amendments by decision in the Journal and announces it in the Collection of Acts of the Slovak Republic by publishing a notification of the Office of issuance of such decision.

(3) The Office shall not exercise regulation on markets pursuant to Subsection 1 on which effective competition was recognised.

Section 24

Leased Lines

(1) Leased lines shall be a service that includes provision of transmission capacity among different points of the same network or different networks, it shall not include switching functions controlled by its user.

(2) A minimum set of leased lines including standards and specifications shall be a part of conditions of the general authorisation for provision of networks and services pursuant to Section 13, Subsection 2, Letter r).

(3) In case the Office finds out upon analysis of the relevant market (Section 16) that there is not effective competition on the markets in which a part or a complete minimum set of leased lines is provided, the Office shall oblige the SMP undertaking on such markets to provide a part of or a complete minimum set of leased lines and to provide this service on the basis of transparency, cost orientation and non-discrimination.

(4) The SMP undertaking shall be obliged to issue and submit reference offer for leased lines to the Office for publishing within 60 days following the date when the decision on imposition of the specific obligation to submit reference offer for leased lines came into force, at the latest. The reference offer for leased lines for undertaking must contain conditions stipulated in Annex 3 hereto. Offers on the leased lines market for end-users can form a part of the general terms and conditions (Section 40) for provision of the service and the tariff (Section 41).

(5) The Office shall be entitled to oblige the SMP undertaking on the market of services pursuant to Subsection 3 to use a price calculation method including types of costs and rules for their allocation. The Office or a qualified and independent person authorised by the Office shall verify the application of the above-mentioned method anytime. The Office shall publish the results of the verification once a year. The Office designates and publishes the cost calculation method and its amendments by decision in the Journal and announces it in the Collection of Acts of the Slovak Republic by publishing a notification of the Office of issuance of such decision.

Section 25

Conditional Access Systems

(1) Conditional access system means any technical measure or agreement ensuring, in a comprehensible form, access to protected services conditioned by a subscription or other consent of the provider of such service. A protected service means radio and television programme services and information society services.

(2) Equipment for enhanced digital television means ancillary equipment intended for connection to the television set or integrated digital television set for reception of digital television services.

(3) It shall be forbidden to use a telecommunications facility so constructed or modified that it enables access to a protected service in a comprehensible form for commercial purposes, without the permission of the service provider.

(4) In the conditional access to digital television and digital radio the undertaking providing conditional access shall be obliged to guarantee to broadcasters the application of conditions of this access. The details on the conditions of access shall be stipulated in a generally binding legal regulation issued by the Office.

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

(6) A television programme service with wide-screen format means a service that consists wholly or partially of programmes produced and edited to be displayed in a full height wide-screen format. The 16:9 format is the reference format.

Section 26

Affordability of Universal Service Prices

(1) The Office shall be obliged to monitor the evolution and level of prices of services that fall within the universal service obligations (Section 50) provided by designated undertakings, in particular with regard to national prices for end-users and their income.

(2) The Office shall be entitled to oblige designated undertakings in line with Section 6, Subsection 4 to:

a) provide end-users with an opportunity to choose affordable prices differing from prices based on normal commercial conditions and which allow end-users with low incomes or with special social needs to access publicly available telephone services and use them,

b) apply common prices throughout the whole territory of the state, geographical price averaging or to comply with maximum prices.

Section 27

Carriers Selection and Carrier Pre-selection

(1) The Office shall oblige the SMP undertaking on the market of public telephone service provided in a fixed location, to provide its subscribers, at their own discretion with access to services of any interconnected undertaking providing publicly available telephone services, namely:

a) on a call-by-call basis by dialling a carrier selection code and

b) by means of pre-selection with a facility to override any pre-selected choice on a call-by-call basis by dialling a carrier selection code.

(2) The prices for access and interconnection related to provision of carrier selection pursuant to Subsection 1 must be so set that they only include costs connected with provision of carrier selection pursuant to Subsection 1 and they exclude that costs which do not relate with such provision. The Office shall be entitled to impose on undertaking, if direct payments from subscribers are requested for the services related to carrier selection, to adjust these payments so, that they do not act as a disincentive of interest of subscriber for the use of carrier selection.

(3) The Office shall be entitled to impose, on the basis of the relevant market analysis, on the SMP undertaking the obligation to enable the carrier selection also in other networks than the fixed public telephone network, if the results of the relevant market analysis show that it shall be necessary in order to achieve effective competition.

Section 28

Interconnection of Networks

(1) An undertaking providing a public network shall have the right and, upon the request of other undertaking providing public networks, obligation to negotiate network interconnection and, if feasible, to interconnect its network with the network of the requesting undertaking on the basis of a contract. Undertakings providing public networks which control the access to at least one network termination point identified by one or more numbers in the numbering plan shall be obliged to interconnect their networks, if requested so by any of them in order to enable the users of individual networks and publicly available services to communicate with each other and ensure interoperability of services.

(2) An undertaking providing a public network shall have the right and, at the request of another undertaking providing a public network in any state of the European Union on the base of general authorisation, obligation to negotiate network interconnection and, if feasible, to interconnect its network with the network of the requesting undertaking on the basis of a contract. The undertaking asking for access or interconnection does not have to have an authorisation to do business in the member state in which it asks for access or

interconnection, provided it does not provide services nor operate a network in the given member state.

(3) Information provided to undertakings during the process of negotiating the interconnection of public networks may be used only for the purpose for which the information was provided, and must not be misused by third parties for the purposes of achieving a competitive advantage. The present provision shall not apply to information pursuant to Section 38, Subsection 2.

(4) Interconnection of public networks must be available in usual points of interconnection and in the quality, which shall not be worse than the operation of the public network for the own needs of the undertaking or for provision of the public network and service to the undertaking in position of controlled person or undertaking in which it has right to make co-decision. The undertaking shall be responsible for interoperability of the interconnection on the side of the public network it operates, up to the point of interconnection.

(5) An undertaking providing public network shall be obliged to enable interconnection:

a) under technical requirements resulting from the technical standards and technical specifications pursuant to Section 13, Subsection 2, Letter r) ensuring interoperability of services, and under transparent and non-discriminatory conditions,

b) in a reasonable period of time and under reasonable contractual conditions, whereas the interconnection must not be conditioned by payment for those parts of the public network or for those facilities that are not inevitable for interconnection,

c) also in other locations than in usual points of interconnection of public networks, if the undertaking providing a public network requests so and covers the essential costs of such interconnection.

(6) The undertaking shall be obliged to submit the concluded contract on interconnection of networks to the Office within 15 days following its conclusion. The Office shall publish notification of conclusion of a contract on interconnection of networks, including basic technical and economic conditions of interconnection. The Office shall allow everyone requesting so to look into the contracts, except for those parts of the contracts which will be marked by contracting parties as business confidentiality. The price for interconnection is not subject to business confidentiality.

CHAPTER FOUR MANAGEMENT OF NUMBERS AND FREQUENCIES

Section 29

Management of Numbers and the Numbering Plan

(1) The Office:

- a) manages the use of numbers,
- b) prepares and issues the numbering plan,
- c) assigns numbers and number blocks according to the numbering plan,
- d) decides on the arrangement of the borders of the public telephone network.

(2) Numbers shall be the calling numbers, number blocks and addresses of public networks and services.

(3) The Office shall set forth the rules for setting and use of numbers and the general terms and conditions for their assignment in the Numbering Plan. Upon its elaboration, the Office shall respect international agreements and obligations of the Slovak Republic resulting from its membership in international organisations, and also take into account the development of new services and ensuring of a sufficient amount of numbers.

(4) An undertaking shall be obliged to provide the Office, upon its request, with the information necessary for preparation and execution of the numbering plan.

(5) The numbering plan and all its amendments and changes shall be published by the Office in the Journal and on the Internet.

Section 30

Management of Frequency Spectrum

(1) The Office shall perform management of frequency spectrum, which shall include:

- a) co-operation with the Ministry in elaboration of the draft of the national table of frequency allocations,
- b) preparing the plan of use of frequency spectrum,
- c) allotment of frequencies,
- d) co-ordination and monitoring of use of frequency spectrum,

e) authorisation of the operation of radio facilities including assignment of frequencies and identification codes.

(2) The national table of frequency allocations shall specify frequency bands allocated to particular services and radio facilities. The national table of frequency allocations shall be published on the Internet.

(3) An inter-departmental commission, the statutes and rules of procedure of which are approved by the Ministry, shall participate in preparation of the national table of frequency allocations.

(4) The Office, on the basis of the national table of frequency allocations, shall prepare the plan of use of frequency spectrum taking into account the need of European harmonisation, level of technical development of radio facilities and the level of operation of networks and services in a particular frequency band. The Office shall publish the plan of use of frequency spectrum on the Internet.

Section 31

Individual Authorisation for Use of Numbers

(1) Individual authorisation for use of numbers shall be the decision of the Office on assignment of numbers.

(2) The Office shall assign numbers in line with Section 6, Subsection 4 on the basis of an application of the undertaking providing public network, public services or public network and public service within three weeks following the delivery of a complete application.

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

- a) name and identification data of the applicant,
- b) information about the requested numbers,
- c) purpose for which such numbers are going to be used,
- d) period of usage of the numbers.

(4) The decision on assignment of numbers shall include:

- a) name and other identification data of the undertaking to which the numbers are allocated,
- b) assigned numbers and definition of the service for which the number shall be used, including any requirements related to provision of this service, effective and efficient use of numbers,
- c) requirements for number portability,
- d) specific terms and conditions for the use of assigned numbers,
- e) period for which the numbers are allocated
- f) annual amount of payment for the used numbers and the way in which it is to be paid,
- g) obligation to submit a report on the use of numbers to the Office once a year within the period of time stipulated in the decision,
- h) obligations resulting from international agreements related to the use of numbers.

(5) The Office shall not assign the numbers, if:

- a) the numbering plan does not enable assignment of numbers,
- b) the applicant does not fulfil conditions for assignment of numbers, or
- c) the applicant breaches conditions of the valid assignment of numbers.

(6) The Office shall decide on a change of an assigned number, if:

- a) it is necessary for the compliance with the obligations of the Slovak Republic resulting from international agreements or from the membership of the Slovak Republic in an international organisation,
- b) it is necessary from the viewpoint of state defence, security of the state, and public order protection,
- c) it is, due to technical or operational reasons, necessary in order to maintain security of public traffic,
- d) it is in the interest of adaptation to market requirements or requirements of users,
- e) there has been any change in the circumstances on the base of which the number was assigned,

f) there is a justified request of the undertaking to which the number was assigned.

(7) In the proceedings pursuant to Subsection 6, the Office shall inform the undertaking authorised to use of numbers on the intended change in writing. Based on such written information, the undertaking may provide its statement to the intended change, within four weeks following its delivery.

(8) The undertaking authorised to use of numbers must comply with the decision of the Office on change of number assignment pursuant to Subsection 6, Letters a) to e) in the period determined by the Office and upon its own cost. If such decision was issued on the basis of reasons specified under Subsection 6, Letters a) to e), the undertaking shall not be entitled to compensation.

(9) The Office shall decide to withdraw the assigned number, if:

a) the undertaking providing public networks, public services or public networks and public services:

1. fails to comply with the obligations stipulated herein or in the decision on the assignment or change of the number, although it was notified of the possibility of withdrawal of the number in writing and the failure has not been remedied within the stipulated period; the above-mentioned shall not apply to the annual fee for the assigned numbers,

2. was not using the number for a period of at least 12 months following the assignment or stopped using the assigned numbers for at least three months,

3. has not rendered the annual fee for the allocated numbers within three months after its due date,

b) it is necessary from the viewpoint of state defence and security and protection of public order.

(10) The decision on assignment of a number shall become invalid on the day of:

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

b) notification of the undertaking that it returns the numbers,

- c) notification of the undertaking that it terminates provision of the network, service or network and service,
- d) entry of the decision on revoking the numbers into force.

(11) A number can be assigned to another undertaking only after six months following the expiration of validity of the previous decision on assignment of that number.

(12) The undertaking to which numbers were assigned shall be obliged to pay for each number in use an annual payment of up to SKK 20 000 according to the price list or its equivalent in EUR based on the exchange rate set by the National Bank of Slovakia (hereinafter as “equivalent in EUR”). The price list shall be determined in a generally binding legal regulation issued by the Office.

Section 32

Individual Authorisation for Use of Frequencies

(1) An individual authorisation for use of frequencies and identification codes shall be the decision of the Office on authorisation to operate a radio facility (hereinafter referred to as “authorisation”) by assignment of a frequency in that decision.

(2) The Office shall assign frequencies in accordance with the plan of use of frequency spectrum on the basis of an application. In case of free frequencies according to the frequency spectrum plan, the Office shall issue the authorisation within six weeks following the day of delivery of a complete application, at the latest. The Office may prolong the above-mentioned period to 8 months, at maximum, if it is necessary for ensuring fair, reasonable, open and transparent procedures for all applicants. The above-mentioned time limits shall be without prejudice to international agreements related to the use of radio frequencies.

(3) The application for frequency assignment shall include:

- a) name, surname and address of the applicant in case of a natural person, or the business name and registered office in case of a legal entity, or the business name and place of business in case of an entrepreneur – natural person,
- b) number and type of radio facilities,
- c) requested frequency,
- d) purpose and way in which the radio facilities will be used, including their technical data,

- e) data about the person responsible for operation of the radio facility and certificate of his/her special professional qualification,
- f) assumed date of putting into operation of the radio facility,
- g) verified copy of the broadcaster's licence pursuant to a special regulation[17]), in case of an authorisation to operate a radio facility for radio and television broadcasting,
- h) period for which the applicant requires the frequency assignment.

(4) In order to assess and verify the application pursuant to Subsection 3, the Office shall be entitled to require submission of information necessary for proving capability of the applicant to meet specified conditions.

(5) In case of assignment of selected frequencies harmonised for a certain type of service listed in the national table of frequency allocations for which the conditions of assignment are determined in the plan of use of frequency spectrum, the Office shall execute a competitive selection procedure .

(6) The Office shall initiate the competitive selection procedure with a call for submitting bids, in which it shall determine:

- a) frequencies, frequency blocks or the frequency band which are subject to the competitive selection procedure,
- b) purpose of use, conditions and principles for optimal use of frequencies,
- c) evaluation criteria,
- d) deadline for submitting applications for frequency assignment ,
- e) requirements regarding the form and content of the submitted supporting documents to the application for competitive selection procedure in order to provide for comparability of the bids,
- f) data on the amount of the one-off payment for allotment or allocation of frequencies as an expected minimum bid,
- g) additional supporting documents for the competitive selection procedure.

(7) The Office shall publish the call for submission of bids pursuant to Section 6, Subsection 4 and in one national daily press periodical in the Slovak Republic.

(8) The Office shall establish a Commission consisting of at least 5 members for evaluation of the applications. The members of the Commission shall be appointed by the Chairman of the Office; only an unimpeachable and competent person can be a member of the Commission. A member of the Commission must not be:

a) person employed or having a similar labour relation to any participant in the competitive selection procedure or its representative,

b) person who is a partner, statutory body or a member of the statutory body or controlling or supervisory body of any participant in the competitive selection procedure or its representative,

c) person that is close[18]) to a partner, statutory body or a member of the statutory body, member of the controlling body or supervisory body or a manager of any participant in the competitive selection procedure or its representative,

d) person whose unprejudiced approach can be doubted with respect to his/her relation to the matter, to any participant in the competitive selection procedure or its representative,

e) employee of the Office taking part in preparation of the competitive selection procedure.

(9) A person that is to be appointed a member of the Commission shall provide the Chairman of the Office with a written declaration on word of honour that in his/her case there is no obstacle pursuant to Subsection 8. Should any obstacle pursuant to Subsection 8 arise after initiation of the competitive selection procedure, the member of the Commission shall be obliged to inform the Chairman of the Office on such a fact without delay and cease participating in the Commission activities until he/she is recalled. The Chairman of the Office shall appoint another person who complies with the conditions stipulated in Subsection 8 and provides a declaration on word of honour thereof, to be a member of the Commission instead of him/her.

(10) The Office may use the services of experts and independent advisors in any phase of the competitive selection procedure.

(11) The applicant for frequency assignment that submitted an application within the deadline stated in the call shall be a participant in the competitive selection procedure.

(12) The Office shall dismiss applications submitted after the set date. The applications cannot not be supplemented or changed after the set date.

(13) The Commission shall evaluate the applications pursuant to criteria stated in the call for competitive selection procedure and determine the order of participants in the competitive selection procedure and it shall elaborate a report about such procedure. In the assignment of frequencies, the Office is bound by the order determined by the Commission.

(14) The Commission shall exclude from the competitive selection procedure the participant whose application does not meet the criteria stated in the call for competitive selection procedure and it shall inform him/her on such exclusion in written notice with giving reasons of the exclusion. The Commission shall determine the order of participants in the competitive selection procedure, and it shall elaborate a report on the process and outcome of the competitive selection procedure. The Office shall inform the unsuccessful participants on the outcome of the competitive selection procedure in writing together with reasons. The report with other documents is a base for the initiation of proceedings of the Office on assignment of frequencies with successful participants.

(15) For successful participants in the competitive selection procedure, the Office shall issue an authorisation within four weeks following the evaluation and setting the order of the participants in the competitive selection procedure, at the latest.

(16) Provisions on the competitive selection procedure shall not apply to the assignment of frequencies for radio and television broadcasting.

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

- a) identification data of the authorisation holder,
- b) designation of the service or type of network or technology for which the rights for use of frequency have been granted including, where applicable, exclusive use of the frequency for transmission of specific content or specific audio-visual services,
- c) conditions for effective and efficient use of frequencies including, where appropriate, coverage requirements,

- d) technical and operational conditions necessary for the avoidance of harmful interference and for the limitation of exposure of general public to the effects of electromagnetic field, where such conditions are different from those specified in the general authorisation,
- e) assigned frequencies, identification codes and the period for which frequencies are assigned subject to any changes in the national table of frequency allocations,
- f) liabilities assumed by the undertaking in the course of the competitive selection procedure,
- g) operator class for amateur stations,
- h) amount and way of payment for frequencies and identification codes, and
- i) obligations which must be fulfilled in order to comply with valid international agreements on use of frequencies.

(18) The Office shall issue an authorisation for operation of a radio facility for radio or television broadcasting, if the applicant has been granted a license for radio or television broadcasting or if it has concluded a contract on provision of services with a holder of such a licence.

(19) The Office shall grant the authorisation for a maximum of 10 years. The Office shall be entitled to prolong the authorisation repeatedly, for a maximum of ten years. In cases justified by the return on investment period, the Office shall be entitled to grant the authorisation also for a longer period or to prolong the authorisation by a longer time. In case of an authorisation for operation of a radio facility for radio and television broadcasting issued on the basis of a license for radio or television broadcasting, such authorisation may be granted for the term indicated in the application for authorisation or for the term of this licence for radio and television broadcasting, at maximum.

(20) The authorisation can not be transferred to another legal entity or natural person. The authorisation shall not be transferred to a legal successor of the authorisation holder upon the sale of the undertaking or its part[19]), or within distraintment performed pursuant to a special regulation[20]), court execution of a decision[21]), or procedure pursuant to a special regulation[22]).

(21) The Office shall not grant the authorisation, if:

- a) it is necessary in order to comply with obligations resulting from an international agreement or the membership of the Slovak Republic in an international organisation,
- b) the plan of use of frequency spectrum does not enable to assign the frequency,
- c) required frequency is not available, or
- d) the Office cancelled the authorisation of requested person/entity pursuant to Section 34, Subsection 1, Letter c) for the same type of the facility in the last three years.

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

- a) due to the reason specified in Subsection 21, Letter a), if the compliance with these obligations can not be ensured in a different way,
- b) if there has been a significant change of circumstances based on which the authorisation was granted,
- c) on the basis of a justified request of the authorisation holder.

Section 33

Fees for the Rights of Use of Frequencies

(1) The fees for the right of use of frequencies shall allow for ensuring the efficient and failure-free use of frequencies. The fee for the right of use of frequencies is a one-off payment for allotment or assignment of frequencies and recurring payments for use of each frequency and identification codes. The one-off payment shall be payable upon issuing of the authorisation before the date on which the radio facility is to be launched into operation, unless there is a different due date specified in the decision.

(2) The fee pursuant to Section 1 in the amount up to SKK 1 000 000 or its equivalent in EUR shall be paid according to the price list while for each frequency for the purpose of radio broadcasting an annual payment up to SKK 90 000 or its equivalent in EUR shall be paid and for the purpose of television broadcasting an annual payment up to SKK 180 000 or its equivalent in EUR shall be paid. The price list shall be defined in a generally binding legal regulation issued by the Office.

(3) The obligation pursuant to Subsections 1 and 2 shall not apply to the use of frequencies according to the national table of frequency allocations for the purposes of defence and security of the state and protection of public order allocated to the Ministry of Defence of the Slovak Republic (hereinafter as "Ministry of Defence"), the Ministry of Interior of the Slovak Republic (hereinafter as "Ministry of Interior") and the Slovak Intelligence Service and for the purposes of the Penal and Justice Guard Corps, Railway Police, Customs Directorate of the Slovak Republic, Fire Corps and Medical Rescue

Service, basic units of integrated rescue system and for the radio and television broadcasting.

Section 34

Cancellation and Expiration of Authorisation

(1) The Office shall cancel the authorisation by which frequencies and identification codes were assigned, if the holder of the authorisation:

- a) has not started to use the assigned frequency for the authorised purpose within one year following the date on which the decision on its assignment came into force, or if the holder has not used the frequency for more than one year,
- b) has ceased to comply with some of the requirements placed on the holder of the authorisation ,
- c) failed to comply with duties stipulated by this Act or determined in the authorisation even though he was notified of the possibility of cancellation of the authorisation and failed to remedy the failure by the deadline stipulated by the Office; this shall not apply to payments for frequencies,
- d) failed to pay the annual payment for frequencies within three months following its due date.

(2) The authorisation shall expire:

- a) on the date of expiration of the period for which it was issued,
- b) by death or lapse of the holder of the authorisation,
- c) on the date of return of the authorisation or the date of renunciation of the authorisation by the holder specified in the notification delivered to the Office,
- d) upon the delivery of application of the undertaking for cancellation of its registration on the basis of notification obligation pursuant to Section 14,
- e) on the date on which the decision on revoking the licence issued pursuant to a special regulation[23]) came into force.

Section 35

Operation of Radio Facilities and Terminal Equipments

(1) Radio facilities and terminal equipment may be placed on the market and put into service only after the assessment of their conformity with the requirements of technical regulations in accordance with special regulations.¹⁴) An undertaking is obliged to submit to the Office technical specifications of the offered interfaces of public networks to which terminal equipment is connected for publishing.

(2) Details on interoperability of terminal equipment intended for reception the of digital television signal and interoperability for analogue and digital television receivers shall be stipulated by generally binding legal regulation issued by the Office.

(3) Radio facilities may be operated on the basis of a general authorisation or authorisation.

(4) In the general authorisation or the authorisation, the Office may restricts the putting into operation of radio facilities only in order to:

- a) ensure the effective and appropriate use of the frequency spectrum,
- b) avoid harmful interference, or
- c) ensure the protection of public health.

(5) The following types of authorisation shall be issued for operation of radio facilities:

- a) individual authorisation, which entitle the holder to use individually assigned frequencies for operation of radio facilities under conditions defined in this authorisation,
- b) type authorisation, which are granted to a producer or importer for operation of facility of a certain type which does not fulfil the conditions of a general authorisation, but whose conditions of operation can be simplified administratively,
- c) special authorisation, which define special conditions of operation during demonstration, research, production, sale, repairs and maintenance,
- d) amateur authorisation, which entitle the holder to operate radio facilities designed for technical self-education, mutual connection, and technical study.

(6) The holder of a authorisation may be:

- a) a natural person that reached the age of 18 years, and whose capability for legal acts has not been restricted, in case of an amateur authorisation a natural person that reached the age of 15 years,
- b) legal entity.

Section 36

Special Professional Qualification

(1) Selected radio facilities may be operated only by a natural person having special professional qualification for their operation. Special professional qualification includes theoretical knowledge and practical experience and knowledge of generally binding legal regulations related to the operation of selected radio facilities.

(2) The special professional qualification shall be tested in an exam by the Office and the Office issues a certificate of special professional qualification. The Chairman of the Office shall establish the Examination Commission and appoint and recall its members.

(3) The obligation pursuant Subsection 1 does not relate to operation of selected radio facilities used by units of Ministry of Defence, Ministry of Interior and Slovak Intelligence Service for purpose of ensuring state defence and state security.

(4) Selected radio facilities shall be:

- a) radio station (hereinafter "station") operating in the short wave bands reserved for telegraph and telephone traffic,
- b) aircraft station,
- c) aircraft earth station,
- d) aeronautical station,
- e) aeronautical earth station,
- f) ship earth station,
- g) ship station,
- h) coast station,
- i) amateur station.

(5) Details on selected radio facilities, establishment of the Examination Commission, contents, scope and course of the examination and the certificates of special professional qualification shall be stipulated in a generally binding legal regulation issued by the Office.

Chapter FIVE SUPERVISION

Section 37

Scope and Measures of Supervision

(1) Supervision shall be performed by means of:

- a) control of fulfilment of obligations and conditions stipulated by this Act, decisions and measures of the Office with respect to provision of networks, services or networks and services,
- b) control of compliance with conditions for placing on the market and putting into operation of telecommunications facilities and facilities that can be a source of electromagnetic disturbance,
- c) control of technical status of telecommunications facilities, networks and lines,
- d) measures for elimination of detected deficiencies and obligation to abstain from activities which are in contradiction with the conditions stipulated hereby,
- e) protection against interference, including monitoring and detection of the source of interference with the operation of networks, services and facilities.

(2) Employees of the Office authorised to conduct supervision (hereinafter as "authorised persons"), shall be, in exercising of supervision:

- a) entitled to enter land and premises, in which the inspected facilities are located or where they are assumed to be located and execute the control pursuant to Subsection 1, while they are entitled to verify the identity of the controlled persons, their employees or persons acting on behalf of controlled persons, they can require the necessary documents, data and written and oral explanations from the controlled persons, and in justified cases they can temporarily take away the facilities for the time inevitably necessary to perform testing or control, and to require from the controlled persons to eliminate the detected shortcomings in the time period determined in the record of control,
- b) obliged to prove their identity with their employee identity cards which authorise them to perform the control, to elaborate a record on the course and result of the control and to provide the controlled person with one copy of the record, to keep facts they learned during the control and in relation to it confidential with respect to third parties.

(3) The controlled persons shall be:

- a) entitled to express their opinion with respect to detected shortcomings by the deadline stipulated by the Office,
- b) obliged to tolerate performance of supervision pursuant to Subsection 2, Letter a) and to provide the authorised persons with all required information and documents,

c) obliged to cover the costs for tests to verify the conformity of products with technical regulations, where their declared conformity does not comply with the requirements of legal regulations.14)

(4) If the Office finds out that the undertaking does not comply with one or several conditions of the general authorisation, individual authorisation or obligations pursuant to Sections 18 to 28, it shall inform the undertaking on the detected shortcomings in writing and set a deadline by which the undertaking shall give its standpoint to the shortcomings. The period for the removal of shortcomings shall be within one month following the delivery of the written notification of detected shortcomings. The period may be shorter than one month, if the undertaking failed to meet the obligation repeatedly, or longer than one month, if the Office decides so.

(5) Should the Office find out that the controlled person failed to remove the shortcomings within the period defined in Subsection 4, it shall impose, by a decision, measures for remedy and penalty.

(6) On the basis of instructions given in the record from the control, the controlled persons shall be obliged to stop immediately and temporarily the supply, sale or operation of equipment completely or partially, if:

a) health, safety or property of persons or environment are or could be endangered due to the breach of obligations and conditions,

b) it is necessary for enforcement and fulfilment of commitments resulting from international agreements, or

c) serious economic or operational problems were caused or could be caused to other undertakings or users due to the breach of obligations and conditions.

(7) The controlled person shall have the right to file objection to the record from the control and a proposal for correction not later than two weeks following the day on which the immediate stopping of supply, sale or operation was ordered. The objection shall have no postponing effect.

(8) If the controlled person failed to fulfil the measures for remedy imposed in the decision and repeatedly breached provisions of this Act, the general authorisation or individual authorisation, the Office shall:

- a) prohibit the provision of networks, services or networks and services provided on the basis of general authorisation, or
- b) cancel the decision on assignment of frequencies, identification codes, numbers.

(9) The Office may impose a discipline penalty up to SKK 5 000 to persons who obstruct the conduct of supervision by failure to meet the obligations stipulated in Subsection 3, Letter b).

Section 38

Obligation to Provide Information

(1) On the basis of written and justified request of the Office, the undertaking or holder of rights to use frequencies, numbers or frequencies and numbers shall be obliged to submit, in the scope required and time limit specified by the Office, information necessary for the enforcement of this Act and international agreements binding upon the Slovak Republic. The Office shall be entitled to request appropriate information in the scope of its powers pursuant to Section 37.

(2) Besides the obligation to provide information pursuant to Subsection 1, the undertaking shall be obliged to submit, on the request of the Office, information for verification of compliance with conditions of the general authorisation, individual authorisation and obligations pursuant to Sections 18 to 28, which are appropriate and objectively necessary for:

- a) systematic or occasional reviewing of compliance with conditions pursuant to Section 13, Subsection 2, Letters d) and e),
- b) occasional reviewing of compliance with conditions of the general authorisation (Section 13, Subsection 2) upon receiving a motion or complaint, dispute solution or in case the Office has other reasons to think that a certain condition has not been fulfilled or in case the Office investigates the subject matter on its own initiative,
- c) procedures of examination of applications for assignment of frequencies, identification codes, numbers or frequencies and identification codes and numbers,
- d) publishing of surveys comparing the quality and prices of services for the benefit of end-users,
- e) defined statistical purposes,
- f) relevant market analyses.

(3) The Office may not request the undertaking to provide information stipulated in Subsection 2, Letters a), b), d), e), and f) before the undertaking starts provision of the network, service or network and service or as a condition for start of their provision.

(4) If the Office request the undertaking to provide the information pursuant to Subsection 2, it shall be obliged to inform the undertaking about the purpose for which the information will be used.

PART THREE

ELECTRONIC COMMUNICATION networks and services

CHAPTER ONE

PROVISION OF NETWORKS AND SERVICES

Section 39

(1) Public networks and associated facilities must comply with technical standards and technical specifications for networks, services or networks and services pursuant to Section 13, Subsection 2, Letter r) with respect to:

- a) security of network operation ,
- b) maintaining of network integrity and infrangibility,
- c) interoperability of services,
- d) connection of terminal equipment.

(2) An undertaking providing a public telephone network, service or network and service shall be obliged to provide all users with:

- a) uninterrupted access to all emergency call numbers including the single European emergency call number “112”,
- b) possibility of dual tone multi-frequency dialling and calling line identification presentation.

Section 40

General Conditions

(1) An undertaking providing public services shall be obliged to issue and publish General Conditions 15 days before the start of provision of the services, at the latest, and publish their updates within the same time limit. The General Conditions for public telephone service contain in particular:

- a) business name, registered seat or place of business,
- b) types of provided services, their description and quality,

- c) contractual conditions,
- d) conditions for prolongation and termination of service provision,
- e) appropriate information about rights related to universal service,
- f) selective call barring,
- g) types of repairs and maintenance services,
- h) claims procedure rules
- i) mechanism for settlement of disputes,
- j) information about emergency calls numbers, including the single European emergency call number "112",
- k) information about the possibility of calling line identification presentation, and on possibilities of calling line identification restriction.

(2) General Conditions for provision of public services can include other conditions related to the provision of these services.

(3) If an undertaking provides several public services, it shall be obliged to issue General Conditions for each service separately.

Section 41

Tariff

(1) An undertaking providing public services shall be obliged to issue and publish a Tariff 15 days before the start of provision of the services, at the latest.

(2) The Tariff shall include especially:

- a) prices for particular services,
- b) free of charge services,
- c) details on one-off, regularly recurring, and variable prices, including first and last day of the billing period, and way of payment of these prices,
- d) data on how user may request information about up-to-date prices of the undertaking and possible discounts on these prices.

(3) Emergency calls, including calls to the single European emergency call number “112”, reports on faults of public pay telephones, and information about changes of telephone numbers within the own network of the undertaking provided via automatic announcements shall be provided free of charge.

(4) If an undertaking provides several public services, it shall be obliged to issue the Tariff for each service separately.

Section 42

Rights and Obligations of Undertaking and User

(1) The undertaking shall have the right to:

a) the payment of the price for the provided public service according to the Tariff, provided the undertaking delivered the bill to the subscriber three months after the last day of the relevant billing period at the latest; this does not apply to the billing of pre-paid services,

b) the compensation for the damage caused to the public network and to the public telecommunications facilities,

c) refuse the conclusion of the Contract on Connection, if:

1. it is not technically feasible to provide the service in the required location, or to the required extent, except for the provision of the universal service,

2. the applicant does not provide the guarantee that he/she will adhere to the contract, especially for the reason that he/she is the debtor of the undertaking or of another undertaking or because some of the undertakings has withdrawn from the contract with him/her or terminated the contract with him/her,

3. the applicant does not agree with the General Conditions,

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

1. the misuse of the service until such misuse is eliminated or technical measures in preventing such misuse are implemented,

2. the failure to pay the due amount for the public service within the time limit specified in the General Conditions, until it is paid or the Contract on Connection expires,

3. the breach of contractual conditions by the subscriber.

(2) The subscriber shall have the right to:

- a) conclude a contract with the undertaking, if there is no reason for its refusal pursuant to Subsection 1, Letter c),
- b) the provision with the public service to the extent agreed in the contract and for the price according to the Tariff,
- c) the clearance of faults in provision of the service that were not caused by him/her and without cost for him,
- d) on his/her request, the provision with the bill itemised with respect to particular outgoing calls,
- e) reimbursement of a proportionate part of the price for the period during which the service was not provided, in case such situation was caused by the undertaking in accordance with the General Conditions; the subscriber shall claim this right towards the given undertaking not later than within three months after restoration of service provision,
- f) the provision with access to operator assistance inquiry services.

(3) The undertaking is obliged to:

- a) conclude a Contract on Connection with every person interested in the provision of the public service, if there is no reason for its refusal under Subsection 1, Letter c),
- b) submit a clear and comprehensible bill for the provided services to the subscriber, provided the nature of the service does not imply that the bill is unnecessary; and provide, on request, detailed information on particular outgoing calls,
- c) the provision with the identification service of malicious, nuisance, and threatening calls (hereinafter “malicious calls”) on the request of subscriber, if technically feasible,
- d) keep a register of personal data [Section 55, Subsection 1, Letter b)] of all subscribers of its network, including the subscribers of pre-paid services, in case a user is assigned a telephone number on buying such a service.

(4) The subscriber shall be obliged to:

- a) use the public service in accordance with this Act, the Contract on Connection, and the General Conditions,
- b) pay the price for the provided public service according to the Contract on Connection and the Tariff and, if the nature of service allows it, only on the basis of the submission of billing document,

c) use only the telecommunications facilities meeting the requirements stipulated by special regulations.14)

(5) The undertaking shall not interrupt or restrict provision of the universal service under Section 50, Subsection 2, Letters a), b) d) and f), in case the subscriber is behind with obligations resulting from other contractual relations with the undertaking.

(6) In case of a crisis situation and extraordinary event, the necessary measures for operation and provision of public network, public service or public network and public service pursuant to this Act shall be ensured by the statutory body of the undertaking, pursuant to special regulations on protection and civil defence of citizens. The undertaking providing public network, public service or public network and public service is obliged, in the extent necessary for handling of crisis and extraordinary situations in the affected territory:

a) to provide the public service preferentially to designated public administration bodies, natural persons, and legal entities,

b) to ensure preferential operation of public pay telephones including emergency calls.

Section 43

Contract on Connection

(1) By a Contract on Connection the undertaking shall commit themselves to install the necessary access to the public telephone network or other public network and make the related services available for the customer. The Contract on Connection shall include the General Conditions and the Tariff.

(2) The substantial parts of the Contract on Connection are the agreed type of the public service, place of its provision, and the price. If the period of the service provision is not determined in the contract, the service shall be provided for an indefinite period of time. The price may also be agreed with reference to the Tariff.

(3) The Contract on Connection shall expire:

a) upon expiration of the term for which the contract has been concluded,

b) by mutual agreement of the contracting parties,

c) by withdrawal,

d) by termination,

e) if stipulated so by a special regulation.

(4) The subscriber may back out of the Contract on Connection without penalty, if the undertaking:

a) notifies him of a change in the terms of the Contract, 30 days before it comes into force at the latest, and the subscriber does not accept the change,

b) repeatedly fails to provide the public service in line with the Contract or has provided it with substantial faults, even after claim,

c) repeatedly fails to eliminate the fault of the public service under claim within the set period.

(5) The undertaking may back out of the Contract on Connection, if the subscriber:

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

b) failed to pay the price of the service provided within 45 days following the due date,

c) connected equipment not meeting the requirements of the special regulations¹⁴) to the public network or uses such equipment in contradiction to the approved conditions and did not disconnect it even upon the request of the undertaking,

d) repeatedly used the public service in a way preventing the operator to control its use,

e) repeatedly violated the terms of the Contract on Connection.

(6) The subscriber may terminate the Contract on Connection concluded for an indefinite period of time for any reason whatsoever or without stating a reason.

(7) The undertaking may terminate the Contract on Connection, if it cannot continue in provision of the public service in the agreed extent or the necessary quality due to technical unfeasibility of further service provision, with the exception of the universal service provision. In case the undertaking terminates the contract due to upgrade of the public services, which is connected with the termination of the provision of the public service under the concluded Contract on Connection, it shall be obliged to submit the notice of termination to the subscriber together with an offer for provision of another public service, similar from the technical and price viewpoint, with its discounted installation.

(8) The notice period shall be stipulated in the General Conditions and shall be the same for both contracting parties.

Section 44

Claims Proceeding Rules

(1) In the claims procedure rules, which shall be a part of the General Conditions, the undertaking shall set out:

- a) details on the scope of the rights of user to claim accuracy of the payments and quality of the public service,
- b) the way of making claims and settlement thereof,
- c) the period for the submission of claims and settlement thereof,
- d) the way of exercising subscriber's right referred to in Section 42 Subsection 2, Letter e),
- e) other details on claims procedure.

(2) The claim shall be made to the undertaking that provided the service. If the claim was submitted to the Office, the Office shall forward this claim without delay to the undertaking against which the claim is addressed. The right of claim may not be restricted in the claims procedure rules, provided it was lodged within the period stipulated in the claims procedure rules; such period may not be shorter than 30 days. The undertaking shall be obliged to inform the subscriber in writing on the results of the examination of its claim within the period set forth in the General Conditions, which shall last no longer than 60 days, otherwise the claim shall be deemed to be recognised.

(3) Claims with respect to review of payment shall not have a postponing effect on payment for the provided public services. If the price exceeds three times the average extent of use of the public service for the preceding six months, the undertaking shall be obliged to enable the subscriber to postpone the payment of the part of the price exceeding the average monthly extent of use of the public service for the preceding six months until the end of the examination of the telecommunications equipment at the latest, or to enable the subscriber to pay the part of price exceeding three times the average extent of use in maximum of three instalments. If the use of the service was shorter than six months but longer than one month, the average extent of use of the service shall be calculated for the whole period of use of service.

(4) If, upon a claim, a defect on the telecommunications equipment is detected, which could prove to be to the detriment of the subscriber, but the scope of the provided public service or the price for providing it cannot be provably determined, the subscriber or end-user shall pay the price corresponding to the price for the average monthly extent of use of the public service for the preceding six months. If the use of the service was shorter than six months but longer than one month, the average extent of use of the service is calculated for the whole period of use of service.

(5) If proved that the claim was submitted without any reason and the subscriber has not met the condition for the postponement of payment pursuant to Subsection 3, the undertaking shall be entitled for interests on late payment as of the due date of claimed payment.

Section 45

Quality of Services

(1) The Office is entitled to specify measurable quality indicators of the public service for end-users, the content, form and way of publishing information on quality.

(2) Undertakings providing the public service shall be, on the basis of measure taken by the Office, obliged to inform the Office, at its request, on the quality level of this service they achieved, pursuant to Subsection 1, and to publish this information in an appropriate way so that it is comparable, in adequate extent and up-to-date. If necessary, the details on quality set by the Office under Section 51, Subsection 4 will be used.

Section 46

Accounting of some Undertakings and Financial Reports

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

a) it has special or exclusive rights for provision of services in other sectors than the sector of electronic communications within the European Economic Area,

b) its annual turnover for a closed accounting period from the provision of networks, services or networks and services in the entire territory of the European Union was at least SKK 2 000 000 000 or its equivalent in EUR.

(2) Turnover, for the purposes of this Act, shall mean the receipts and revenues of the undertaking from the provision of public network, service or network and service.

(3) The undertaking providing public network, public service or public network and public service exclusively in the territory of the Slovak Republic and conducting business also in other market than the relevant market of the electronic communications sector, shall be obliged to keep separate accounting records of costs and revenues from the other activities in order to avoid cross-financing of other activities so that the services could not be made preferential or disadvantageous by re-distribution of costs and revenues from other activities, and vice versa.

(4) The undertaking providing public network, public service or public network and public service, which is not legally obliged to perform independent auditing, shall be obliged to provide its financial statements[24]) to the Office for inspection, upon request. The Office shall be entitled to examine those statements and publish the result.

Section 47

Interoperability of Services

(1) The undertaking providing public network, public service or public network and public service shall be obliged to ensure:

- a) mutual interoperability of services among all networks interconnected with its network,
- b) call handling made within European telephone numbering space,
- c) enable end-users from the member states of the European Union to make calls to non-geographic numbers in the Slovak Republic, if it is technically and economically feasible, except for the cases where the called subscriber limited, for commercial reasons, access to certain non-geographic numbers for parties calling from specific geographical areas,
- d) interoperability with terminal equipment of digital television in accordance with their conditions.

(2) Details concerning the conditions of interoperability of public networks, public services or public networks and public services shall be specified in a generally binding legal regulation issued by the Office.

Section 48

Number Portability

(1) Undertaking providing public telephone services, including mobile services, shall be obliged to ensure, where it is technically feasible, that any user who so requests, should be able to retain its telephone number independently of the undertaking providing service:

- a) in the case of geographic numbers within numbering area geographically determined by the Office of the given numbering area, and

b) in the case of non-geographic numbers, at any location.

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

(3) The Office shall be obliged to ensure that the prices for interconnection in ensuring number portability are cost-oriented and, if users are required to pay direct payments for services related to number portability, the prices should not act as a disincentive for the use of these services.

(4) Details in relation to ensuring of number portability shall be stipulated in a generally binding legal regulation issued by the Office.

Section 49

Installation and Operation of Special Electronic Communications Networks

(1) A special network is not a public network. It is established and operated only for a specified group of persons and for special purposes, in particular for the purposes of state defence, state security and the protection of public order, life, health and property.

(2) The right to establish and operate special networks shall be vested to the Ministry of Defence, the Ministry of Interior, and the Slovak Intelligence Service.

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

(4) Connection of a special communications network to a public network shall be performed only in case it is an important state interest, and on the request of the operator of special communications network. The operator of public communications network shall be obliged to satisfy the justified request, if technically feasible.

(5) Only Sections 66 to 70 shall apply to special telecommunications networks.

CHAPTER TWO

UNIVERSAL SERVICE

Section 50

(1) The universal service means a minimum set of services that are available in a specified quality in the whole territory of the state to all end-users regardless of their geographical location and at an affordable price.

(2) The scope of the universal service shall include the following obligations:

a) provision of public telephone services at a fixed location of access to the network, including facsimile transmission of information and transmission of data at transmission rates allowing functional Internet access taking into account prevailing technologies used by the majority of users and technological feasibility,

b) regular provision of at least one comprehensive telephone directory, whether printed or in electronic form, or in both forms according to the selection of subscriber, and its regular update at least once a year; the comprehensive telephone directory contains data on all published subscribers of public telephone services,

c) provision of reasonable availability of public pay telephones,

d) provision of free of charge and uninterrupted access to emergency call numbers, including the single European emergency call number "112", including access from public pay telephones without using any means of payment,

e) provision and operation of at least one comprehensive telephone directory inquiry service,

f) ensuring of access to publicly available telephone services for disabled users and appropriate availability of public pay telephones with barrier-free access and special equipment.

(3) Details related to public pay telephones and services for disabled users shall be stipulated in a generally binding legal regulation issued by the Office.

(4) The Office shall designate one or more undertakings to provide the universal service and impose the obligation of providing the universal service to one or more undertakings pursuant to Subsections 1 and 2 so that the whole of the state territory can be covered. The Office may determine different undertakings or a group of undertakings, which will provide only some elements of the universal service, cover different parts of the state territory or provide only some elements of the universal service and cover different parts of the state territory. In designating the undertaking to provide the universal service, the Office shall proceed in line with Section 6, Subsection 4 and no undertaking shall be

excluded from this possibility. The Office shall also take into account the fact which undertaking would need the lowest contribution to costs of the universal service.

(5) The undertaking providing the public telephone network is obliged to provide the designated undertaking having obligations pursuant to Subsection 2, Letters b) and e) with updated data on its subscribers in the agreed form and provide this data free of charge to the Office on its request.

(6) The undertaking providing public telephone network is obliged, on the request from other operators of public telephone network or other persons publishing subscriber directories of public telephone network or providing general inquiry services, to provide them with its subscriber directory in the agreed form and under conditions that are fair, objective, cost oriented and non-discriminatory. If the undertaking providing public telephone network and the operator of public telephone service or other person do not come to an agreement on the provision of data within six weeks after the delivery of request of one of them, any of the parties may ask the Office for a resolution. The Office is obliged to decide on the matter.

(7) The Office shall notify to the European Commission the undertaking designated to provide the universal service and any changes in the provision of the universal service without delay.

Section 51

Quality of the Universal Service

(1) The quality indicators as well as the target values shall be specified by the Office in accordance with the guidelines of the European Commission, and taking into account the state of technology and the economic conditions so as to ensure access to comprehensive, comparable and clear information for the end-users. The quality of the universal service shall be determined especially by the following indicators:

- a) supply time for initial connection,
- b) fault rate per subscriber line,
- c) fault repair time,
- d) unsuccessful calls,
- e) call set up time,
- f) response time for directory inquiry service,

g) coin-operated public pay telephones in working order, card-operated public pay telephones in working order or coin and card public pay telephones in working order,

h) bill correctness complaints.

(2) The undertaking providing the universal service shall be obliged to inform the Office and publish results achieved in relation to quality indicators of networks, services or networks and services.

(3) The Office shall be entitled to perform or to have performed, at the cost of undertaking, the independent verification of quality indicators in order to ascertain the correctness and comparability of provided information, in case the undertaking repeatedly fails to achieve the target values.

(4) Details concerning the quality indicators and target values, including details on the form, extent, content, and the way of publishing the information shall be stipulated in a generally binding legal regulation issued by the Office

Section 52

Control of Expenditures on Universal Service by User

(1) The undertaking providing the universal service must not charge prices exceeding the framework of the universal service provision so that the user does not have to pay for equipment or service which are not necessary or not required for the service requested.

(2) The Office shall be entitled to oblige the undertaking providing the universal service to provide its user with the following services in order to enable them to control their expenditures, in particular:

a) free of charge barring of outgoing calls of certain types or calls to certain telephone numbers, mainly to bar, on the user's request, access to public service content of which could endanger the moral education of the youths,

b) possibility of advance payment for the connection to the public telephone network and use of public telephone services,

c) possibility to pay for the installation of connection to the public telephone network in instalments.

Compensation of Net Costs for Universal Service

Section 53

(1) The undertaking providing the universal service shall have the right for compensation of identified net costs related to performing of the universal service obligation, if its revenues from the service are lower than costs provably needed for the provision of universal service. The undertaking can file the application with supporting documents for the net costs compensation to the Office within two years after the closing of financial year in which they were arisen. The right for compensation shall expire after this deadline.

(2) The Office shall assess supporting documents of undertaking for the calculation of net costs, and in the case of their correctness the Office shall decide on amount of compensation of loss for providing universal service. These supporting documents can be verified by a person authorised by the Office having an expert capability and being independent from both parties concerned.

(3) The Office shall calculate the net costs taking into account any market benefit that the particular undertaking gains by the obligation of universal service provision. The procedure of designation of the undertaking for provision of the universal service obligation pursuant to Section 50, Subsection 4 can also be used for determination of net costs. The Office shall publish the calculated net costs.

Section 54

(1) In case of need, the Office shall establish and administer a special universal service account (hereinafter as "special account") for compensation of net costs; undertaking providing public networks, public services or public networks and public services whose annual turnover share on the domestic market of public network, public service or public network and public service is equal or exceeds 0,2 percent is obliged to contribute to this account.

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

(3) If the special account of the universal service is established pursuant to Subsection 1, the relevant undertakings shall be obliged to inform the Office, annually upon request, on their turnovers in the particular market, also with retroactive effect. For this purpose, the Office shall be entitled to inspect, either by itself or by means of an authorised independent auditor, the accounting books and records and make estimation.

(4) The Office shall annually publish the report on economic activity of the special account, which shall include the amount of net costs, market benefits that the designated undertaking gained by the universal service provision and specified contributions of particular undertakings.

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

(6) Undertaking contributing to the compensation of net costs shall be obliged to pay its share of contribution to the special account stipulated by the Office within three months. The payment period shall commence on the day the decision comes to force. In case the undertaking with the obligation to contribute is late with the payment for more than four weeks, the Office shall start to claim the unpaid contribution.

(7) Details on the universal service, on establishment and administration of the special account shall be defined by the generally binding legal regulation issued by the Ministry.

PART FOUR

PROTECTION OF PRIVACY, DATA AND BUSINESS confidentiality

Section 55

(1) The protection of privacy includes the subject of telecommunications privacy, which shall be related to:

a) information and data received, conveyed, mediated, and stored during provision of services, in particular the contents of the information conveyed and location data (Section 59, Subsection 6),

b) personal data of communicating parties, which includes name, surname, academic degree, and address in case of a natural person or business name and seat in case of a legal entity or business name and place of business in case of an entrepreneur – natural person, telephone number, if it should remain private on the request of the user and category of access to the network; data published in the directories of subscribers are not subject to telecommunications privacy,

c) traffic data related to public service.

The rights and obligations connected with personal data protection which are not regulated by this Act are governed by the special regulation.

(2) Everybody who comes in contact with the telecommunications privacy in provision of the networks and services, while utilising services or by coincidence shall be obliged to keep it secret.

(3) The subject of telecommunications privacy may be disclosed to the Office and person concerned, to their authorised representatives or legal successors, state authority authorised to ensure state defence and security and protection of public order for the purposes of examination, investigation, and prosecution of crimes or unauthorised use of telecommunications facilities, if the obligation for the undertaking to disclose the telecommunications privacy arises from special regulations[25]).

(4) Listening, tapping, and storing of information transmitted via networks conducted by other persons than the communicating persons shall be forbidden, except for a method contractually agreed with the user or as a part of exercising the statutory authorisation of designated state authorities. This ban shall not apply to information concerning:

- a) originators of malicious calls,
- b) originators disseminating alarming or threatening information,
- c) originators of calls misusing the service by using communications facilities for their benefit to the detriment of the undertaking or third parties,
- d) telecommunication facilities, from which calls under Letters a) to c) were made.

(5) The undertaking providing public telephone service shall not perform listening, recording, tapping, storing, and interception the information conveyed or hand-over information to anybody without the consent of all users concerned. That does not apply to recording and tracking of telephone calls in case of the reception of an emergency call and in case of malicious call identification. The undertaking shall not be liable for the protection of the information conveyed, if such information can be directly heard or obtained without protection at the place of broadcasting or reception.

(6) The undertaking shall be obliged to:

- a) co-operate with the Police Corps and other authorities active in criminal proceedings in investigation of malicious calls and of disseminating alarming information pursuant to Subsection 4,
- b) provide necessary co-operation to courts, prosecutors and other state administration authorities pursuant to special regulations²⁵) and provide them free of charge, on the

base of a written request and in line with the respective regulations, with information, which is subject to telecommunications privacy or to which protection of personal data applies, if the provision of the information or data is necessary for fulfilment of particular tasks of these bodies under the Act; the operator's employees shall be obliged to keep confidentiality with respect to the provision of information or other co-operation.

(7) Undertaking providing public networks, public services or public networks and public services shall be entitled, in order to protect their activities, to provide each other with and exchange the necessary personal data in the extent of Subsection 1, Letter b), if such information relates to their debtors or to persons about whom the undertaking has found out that they stole or damaged telecommunications facilities or misused telecommunications facilities or services, for the purpose of assessment referred to in Section 43, Subsection 1, Letter c point 2 and for the more effective protection of undertakings against such persons.

(8) The undertaking shall be entitled to collect and process the data that is subject to telecommunications privacy pursuant to Subsection 1 only for the purpose of service provision and purpose stipulated in Subsection 6.

Section 56

(1) The undertaking providing networks, services or networks and services, using coding, compression, encryption or other way of keeping privacy of the conveyance of signals, shall be obliged to ensure at its own expense, that information gathered during the listening and recording of traffic in networks is provided, in a comprehensible way, to state authorities or to authorities acting in criminal proceedings. The Office shall, on the basis of proposal from a state body, issue a list of facilities used for coding, compression, encryption or similar facilities which shall be forbidden to connect to the network.

(2) The undertaking which acted pursuant to Section 13, Subsection 2, Letter j) is entitled to categorise the costs for providing for and the connection of a facility for listening and recording of traffic in networks as tax expenditure[26]) and to depreciate tangible fixed assets.

Section 57

Security and Protection of Personal Data in Network Operation

(1) An undertaking shall be obliged to adopt appropriate technical and organisational measures for protection of its networks, services or networks and services, which shall, with respect to the state of technology and costs of implementation, ensure security at the level appropriate to existing risk.

(2) The undertaking providing networks, services or networks and services shall be entitled to obtain and process personal data of users, which include, besides data referred to in Section 55, Subsection 1, Letter b) also the birth registration number, ID card number or number of a different identity proof and nationality, only for the purposes of:

- a) concluding, performance, change or termination of the contract,
- b) billing and registration of receivables,
- c) elaboration of directories of subscribers,
- d) provision of information within activities of co-ordination and operation centres of emergency calls[27]),
- e) co-operation and provision of collaboration pursuant to Section 55, Subsection 6.

(3) The undertaking shall erase personal data without delay upon termination of contractual relations. Exceptions are possible only for the purposes of billing or entering of payments, registration, and enforcement of receivables of the undertaking for the provided service, for handling of users' requests or in order to comply with other legal obligations and to exercise rights.

(4) Transfer of personal data shall be possible only if it is necessary for the provision of the service, for which the data were requested, collected, and processed. Evaluation of personal data for the purposes of the introduction of service into the relevant market or provision of value added services, as well as other information transfers may be performed only on the basis of consent of the concerned person; such consent may be revoked at any time. Consent of the concerned person shall be any explicit and distinctive expression of free will, in which the concerned person expresses consent with the processing of his/her personal data. The undertaking may not condition the provision of its services by such consent.

(5) An undertaking shall be obliged to inform the subscriber about what personal data shall be obtained and processed, on the basis of what legal document, for what purpose and for how long the data will be processed. Such information shall be provided in an appropriate form within the General Conditions, not later than on the date of concluding the Contract on Connection.

(6) In case of existence of a special threat to security of the network, the provider of publicly available services shall be obliged to inform concerned subscribers on such threat and possible remedies, including expected costs necessary to avert the threat.

Section 58

Protection of Business Confidentiality by the Office

(1) The employees of the Office shall respect confidentiality of facts that are subject to business confidentiality¹⁰) on which they were informed.

(2) The Office is entitled to request the undertaking to submit a written reasoning of information or documents being classified as business confidentiality and to provide such wording of information and documents which does not contain business confidentiality.

Section 59

Traffic and Location Data

(1) Traffic data shall be any data related to users, processed for the purpose of transmission in the network or for the purposes of billing. They shall include mainly telephone numbers, address of user, type of the terminal equipment or other facilities, tariff code, total number of call units billed in the billing period, type, date, time and duration of connection, volume of transmitted data.

(2) Traffic data shall not be stored without consent of the concerned persons and the undertaking shall be, after end of the connection, obliged to erase them immediately or make them anonymous; this shall not be the case when the entitled state body or authority acting in criminal proceedings¹²) ask for the data.

(3) If it is necessary for billing and accounting of payments, including prices for interconnection of networks, the undertaking shall store the traffic data until the expiration of the period, during which the bill may be legally challenged or the claim for a compensation may be asserted. The undertaking is obliged to provide traffic data in unabridged extent to the Office or to the court in case of dispute. In case a claim or out-of-court dispute resolution has started, concerning the amount of payment or quality of services, the traffic data shall be stored until the results of investigation of the claim are announced or until the Office concludes the out-of-court dispute resolution (Section 73). The scope of stored traffic data must be limited to the inevitably necessary minimum.

(4) Traffic data may be processed only by persons authorised for management of operation of a network, service or network and service or persons authorised by them, namely for the purposes of billing, answering requests of users, investigation of frauds, for marketing purposes or for provision of value added services. The scope of used traffic data must be limited to the indispensable minimum.

(5) The undertaking shall not process traffic and location data on the user on the basis of telephone numbers called from his/her access to the network, except for their processing for the purposes of billing, unless otherwise stipulated by this Act. The undertaking may use the data for marketing purposes only with consent of the user.

(6) Location data shall be any data processed in the network indicating the geographic location of terminal equipment of the user of publicly available service. The location data, other than traffic data may be processed only if they are made anonymous or with the consent of the user of public network or service, and in the scope and time necessary for provision of the value added service. The undertaking providing the service shall be obliged to inform user, prior to obtaining his/her consent, on location data other than traffic data, which will be processed, on the purpose and duration of their processing, and whether they will be transmitted to third parties for the purposes of provision of a value added service. The user shall have the possibility to revoke his/her consent for processing of location data anytime.

(7) If the user has given his consent to the processing of location data, other than traffic data, the undertaking providing the services shall be obliged to provide the user with the possibility to temporarily refuse processing of location data for every connection to the network or for any transmission of message in a simple way and free of charge.

(8) Procession of location data in line with Subsections 6 and 7 shall be limited to persons acting upon authorisation of the undertaking providing public networks, public services or public networks and public services or to persons of third parties providing value added services and shall be limited to necessary purposes of provision of value added services.

(9) In case of emergency calls the undertaking shall be obliged to provide the co-ordinating or operational centre of integrated rescue system, provided it is technically feasible, with the presentation of calling line identification and location data even in case when the calling line restricted the presentation of calling line identification or has not given consent with the processing of location data. The co-ordinating or operational centre of integrated rescue system, from the moment the requested data were provided, shall be liable for the damage caused by the misuse of information provided on personal or location data.

Section 60

Storing of the Content of Transmitted Information

(1) The storing of the content of transmitted information shall be forbidden, unless the storing of the content forms substantial part of the service. Should a short-term storing of the content be necessary for technical reasons, the undertaking shall be obliged to erase such stored information immediately after termination of the reason for their storing.

(2) The undertaking shall be obliged to adopt technical and organisational measures in order to ensure that the content of transmitted information shall not be stored at all, or shall be stored in a minimum extent, which is inevitably necessary due to technical reasons. Should the storing of the content of the information be a feature of the service, the undertaking shall be obliged to erase such information immediately after termination of service provision.

Section 61

Protection of Data from the Directory of Subscribers

(1) The subscriber has, with respect to the undertaking with which he/she is in a contractual relation on the provision of public telephone service, the right of publishing, free of charge, personal data in the subscriber directory of this undertaking. The subscriber has the right to check his/her record, modify it or have it deleted.

(2) Other data may also be stated in the subscriber directory with the consent of the subscriber. If other persons are concerned herewith, they must agree with the publishing of their personal data.

(3) If the subscriber so requires, the undertaking shall be obliged not to publish his/her personal data in the subscriber directory and the data must neither be passed over nor communicated to another undertaking or persons pursuant to Section 50, Subsection 6 and to a third party or provided by operator-assistance service; the rights of the authorised state authorities shall not be affected herewith.¹²) The undertaking must not require compensation for not publishing the subscriber in the directory of subscribers.

(4) The data included in the directory of subscribers may be used and processed by the undertaking only for the purposes of public telephone service provision. Any other use is allowed only with the consent of the subscriber concerned. The data from the subscriber directory must not be used particularly for compiling of electronic profiles of subscribers or for clustering of customers into groups, with the exception of elaboration and publication of lists of subscribers pursuant to the categories of access to the network. The undertaking shall be obliged to adopt appropriate technical measures by which it will make the copying of electronic directories of subscribers impossible.

(5) As for the data related to a single subscriber, the ban on their use pursuant to Subsection 4, shall not be applied in case of a request of a court related to investigation and prosecution of a crime. The undertaking shall be obliged to adopt such technical and organisational measures as to meet such requests also with respect to data, which is, pursuant to Subsection 3 not published in the directory.

Section 62

Identification Presentation

(1) If the undertaking offers the service of identification presentation of:

a) the calling line on the terminal equipment of the called party, the undertaking shall, with the exception of emergency calls, offer the calling party the possibility to restrict the presentation of the calling line identification, simply and free of charge, for each individual call; the calling party must have the possibility to restrict the presentation of the calling line identification by a one-off setting for all calls,

b) the calling line, the undertaking shall offer the called party the possibility to restrict the presentation of the calling line identification for incoming calls, simply and free of charge for reasonable use of this function,

c) the calling line, and if such service is activated, the undertaking shall offer the called party the possibility to reject those incoming calls, for which the calling party restricted the presentation of the calling line identification, simply and free of charge,

d) the connected line of the called party on the terminal equipment of the calling party, the undertaking shall, with the exception of emergency calls, offer the called party the possibility to restrict the presentation of the connected line identification on the terminal equipment of the calling party, simply and free of charge,

e) the calling line or connected line, the undertaking shall be obliged to inform about the possibility of the presentation and the restriction of the presentation of calling line identification and connected line identification in its General Conditions.

(2) The provider of public network or publicly available service shall be entitled to cancel:

a) the restriction of the presentation of calling line identification, on a temporary basis, upon application of a subscriber in order to monitor malicious or nuisance calls,

b) the restriction of the presentation of calling line identification and dissent of a subscriber with processing of location data in case of calls to emergency lines.

(3) The undertaking is obliged to ensure the service of the presentation of calling line identification pursuant to Subsection 1 for subscribers connected to a digital exchange. This obligation also relates to subscribers connected to an analogue exchange, provided

it is technically feasible and it does not involve excessive costs. The Office shall inform the European Commission on cases, in which it is not technically feasible to offer the service pursuant to Subsection 1 or it involves excessive financial costs according to reasoned documentation from the undertaking.

Section 63

Automatic Call Forwarding

(1) The undertaking, at providing services enabling call forwarding shall be obliged to enable all users to stop, by themselves, free of charge and in a simple way, the automatic call forwarding to their terminal equipment, which was initiated by a third party.

(2) The obligation of the undertaking pursuant to Subsection 1 relates to subscribers connected to digital exchange as well as analogue exchange in cases, when it is technically feasible and it does not involve excessive costs. The Office shall inform the European Commission on cases, in which it is not technically feasible to offer the service pursuant to Subsection 1 or it involves excessive financial costs according to reasoned documentation from the undertaking.

Section 64

Malicious Call Identification

(1) Malicious call identification means the identification of the calling line number independently of the will of the calling party.

(2) If subscribers request the undertaking to monitor calls for the purpose of malicious call identification, the undertaking shall provide for identification of the calling line number or cancellation of the restriction of presentation of calling line identification for future calls. The undertaking is entitled to charge such service.

(3) Should the subscriber get convinced about malicious calls in the course of their monitoring, and the undertaking finds out the identification of the calling line number, it shall inform the subscriber about it.

Section 65

Unsolicited Communication

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

(2) Calling, sending of facsimile messages, electronic mail messages, including SMS messages to a user for the purpose of direct marketing shall only be allowed with his/her prior consent. The consent of person authorised by the user for use of its access to the

network shall be considered as the consent of the user. The consent given may be revoked at any time. Sending of electronic mails for the purposes of direct marketing, from which the address to which a user may send a request to cease mailing of such messages and identity of the sender is unknown, shall be prohibited.

PART FIVE

PROTECTION OF NETWORKS AND FACILITIES

Section 66

General Obligations

(1) Everyone shall be obliged to perform its activities so as to avoid damaging of lines and interference with operation of networks, services or networks and services and avoid encroachment of service provisioning, otherwise he/she shall be responsible for damage incurred to the undertaking.

(2) Owner or user of real estate shall be obliged:

a) to take care so that use of real estates does not cause damage to networks and facilities and does not interfere with the operation of lines, especially aerial and underground cable lines,

b) to maintain coppices in the protective zones so that they does not endanger safety and reliability of the lines.

Section 67

Protective Zones

(1) A protective zone is established for protection of lines.

(2) The protective zone of the line shall be 1,5 m wide, starting from the axis of the route of the line and running along its entire length. The depth and height of the protective zone shall be 2 m measured from the ground level in case of underground cables and within radius of 2 m in case of aerial cables.

(3) The following shall be forbidden within the protective zone:

a) place structures, facilities and plant coppices, or perform ground works which could endanger the lines or secure operation of the network,

b) perform service activities connected with the use of machinery and equipment interfering with operation of the networks and the associated facilities and services.

(4) Relocation of lines caused by construction activities of third persons can only be performed after an agreement and under conditions agreed with the undertaking. Costs of such relocation shall be covered by the constructor, unless agreed otherwise. Should the line be simultaneously upgraded, the costs of upgrade shall be covered by the undertaking.

Section 68

Protection from Interference

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

(2) The electromagnetic disturbance arising from the operation of electrical and electronic facilities containing electrical or electronic components shall not exceed the level above which facilities cannot operate as intended.

(3) Facilities shall be constructed so as to have an adequate level of intrinsic immunity to electromagnetic disturbance, allowing them to be operated as intended.

(4) If harmful interference or disturbance preventing the facility to operate as intended occurs, the undertaking or user of the facility causing interference shall be obliged to take efficient protection measures without delay or to terminate operation of such facility. If it is not possible or if it is more efficient or effective to take protection measures on facility that is subject of interference, the undertaking shall make them. Costs of elimination of interference shall be covered by the undertaking or user whose facility causes interference.

(5) As an interference shall be considered also causing the operation impossible due to electromagnetic shielding or reflections of electromagnetic waves from structures built after putting the lines into operation.

Section 69

Rights and Obligations with Respect to Third Party Real Estates

(1) The undertaking providing public network shall be entitled, in the public interest and to the necessary extent, to:

a) install and operate public networks and build their lines in third party real estate,

b) access the third party real estates in relation to installation, operation, repair, and maintenance of lines,

c) perform necessary adjustments of the land and its coppices, especially to remove and disbranch trees and other coppices endangering the safety and reliability of line, if the owner or user of the real estate has not done so following an advance call.

(2) The obligations corresponding to the rights pursuant to Subsection 1, are an easement[28]) related to affected real estates. The undertaking shall submit a proposal for the entry to the land registry[29]).

(3) In the performance of its rights pursuant to Subsection 1, an undertaking providing a public network shall be obliged to proceed in a way not causing damage to real estates, and if such damage cannot be avoided, to restrict it to the minimum possible extent. The owner or user of the real estate must be informed about commencement of the performance of rights at least 15 days in advance. The undertaking shall be entitled to access third party real estate for reason of a breakdown or fault on the line even without prior notification; in such case the owner or user shall be notified without undue delay.

(4) Following completion of inevitable works, the undertaking shall be obliged to re-establish the previous state of the real estates and if that is not possible given the nature of the work performed, to return the real estate to a state corresponding to the previous purpose or use of the real estate. If this is not possible, or if the resultant state of the real estate is worse than the original state, the undertaking shall be obliged to pay an adequate one-off compensation corresponding to the extent of limitation on the use of the real estate to the owner. Should the undertaking and owner of the real estate fail to agree on the amount of adequate compensation, each of them is entitled to file a proposal for decision to the court within six months following the day of laying claim to the undertaking in question. After examining of the subject matter, the Office shall decide on the amount of adequate compensation.

(5) If, as a result of the exercise of rights of the undertaking pursuant to Subsection 1, the owner or user of the real estate is restricted from the usual use of the real estate, they he/she be entitled to an adequate one-off compensation for the forced restriction on the use of the real estate. Should the undertaking and owner of the real estate fail to agree on the amount of adequate compensation, each of them is entitled to file a proposal for decision to the court within six months following the day of laying claim to the undertaking in question. After examining of the subject matter, the Office shall decide on the amount of adequate compensation.

(6) The document necessary for territorial and construction proceedings[30]) shall be the statement of the concerned undertakings on existence of underground or aerial lines and

radio links in the location of the construction and on the possibility of interference with radio transmission.

(7) The construction project shall contain the route of all lines laid in the place of construction. The project engineer shall be responsible for the failure to fulfil this obligation.

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

(9) The undertaking is entitled to use internal line distribution systems of third parties in constructions and premises in which public services are provided. The undertaking shall be obliged to cover real costs spent on preservation and maintenance of such distribution systems duly and appropriately to the proportion of usage. The owner of the real estate shall claim compensation of costs spent by the owner for preservation and maintenance of internal line distribution systems from the undertaking within six months after they were spent, otherwise the right shall lapse.

(10) Issuance of territorial decrees for placement of lines and construction authorisations for telecommunications constructions by public administration authorities shall not be in the conflict of interests, if these authorities also perform activities related to the ownership or operation of networks, services or networks and services.

Section 70

Co-location and Use of Facilities

(1) If an undertaking providing networks, services or networks and services cannot place a new line or install telecommunications facility or if it can do so only with unreasonable restrictions on the use of third party real estates, due to the need of protection of environment, public health, public security or due to objectives of town and country planning, it may request another undertaking providing networks, services or networks and services to allow it to use the existing physical infrastructure including constructions, premises and parts of lines, under non-discriminatory conditions and for compensation, unless this requires significant additional works and related costs.

(2) Conditions of use of infrastructure including constructions, premises, and parts of lines pursuant to Subsection 1 shall be agreed in a contract concluded between the undertakings. Conclusion of the contract may be rejected only on the grounds of technical unfeasibility.

(3) Should the undertakings fail to agree upon the contents of the contract, any of them shall be entitled to file a proposal for decision to the Office. If the Office decides on shared use of infrastructure, including constructions, premises and parts of lines, it shall also set rules for apportionment of costs.

PART SIX
ADMINISTRATIVE TORTS
Section 71

(1) The Office shall impose a fine up to SKK 20 000 000 or the equivalent in EUR on those, that:

a) provided networks, services or networks and services for which the general or individual authorisation (Section 12, Subsection 1) was not issued, or provided networks, services or networks and services despite the decision by which the Office banned their provision, cancelled the decision or banned their provision and cancelled the decision on assignment of frequencies, identification codes or numbers (Section 37, Subsection 8),

b) failed to ensure access or interconnection (Sections 21 and 28),

c) failed to comply with the obligation imposed by the Office in providing access or interconnection to charge its prices on the corresponding markets in such a way that they covered only costs connected with providing of access or interconnection together with reasonable return on the invested capital calculated according to the method of cost calculation set by the Office (Section 22, Subsection 1),

d) failed to submit the reference offer for access or interconnection or reference offer for unbundled access to the local loop to the Office (Section 18, Subsections 2 and 3),

e) failed to provide the universal service (Section 50, Subsections 1 and 4).

(2) The Office shall impose the fine up to SKK 10 000 000 or the equivalent in EUR to those that:

a) failed to fulfil the notification obligation for the purpose of provision of network, service or network and service, if the Office stipulated it in the general authorisation, or the notification obligation regarding to their changes or cancellation of their provision (Section 14, Subsection 1),

b) failed to fulfil one of the conditions or some conditions of the general authorisation (Section 13, Subsection 2),

c) failed to adopt relevant technical and organisational measures for protection of security of its networks, services or networks and services (Section 57, Subsection 1),

- d) failed to provide for drawing of routes of all lines in the place of construction into the construction project (Section 69, Subsection 7) or failed to provide for security and protection of personal data in network operation (Section 57),
- e) failed to use the price calculation method determined by the Office, with the specification of types of costs and rules for their allocation (Section 22, Subsection 1; Section 23, Subsection 2; Section 24, Subsection 5),
- f) failed to submit reasoning for prices to the Office upon its request, or failed to perform their adjustment imposed by the Office (Section 22, Subsection 2) or failed to submit the concluded contract on network interconnection to the Office in the given time limit (Section 28, Subsection 6),
- g) failed to submit for publishing the technical specifications of the offered interfaces to the Office (Section 35, Subsection 1),
- h) failed to provide some service from the universal service obligations (Section 50, Subsection 2),
- i) failed to keep separation of costs and revenues (Section 46, Subsections 1 or 3),
- j) breached the telecommunications privacy (Section 55, Subsection 2),
- k) placed on the market or operated electric or electronic facility that exceed the level of electromagnetic disturbance above which facilities cannot operate as intended (Section 68, Subsection 2),
- l) failed to take immediate effective protection measures or failed to stop operation of facility, if harmful interference or disturbance preventing operation of the facility to operate as intended took place (Section 68, Subsection 4).

(3) The Office shall impose the fine up to SKK 3 000 000 or the equivalent in EUR to those that:

- a) refuse to tolerate exercising of state supervision [Section 37, Subsection 3 Letter b)], failed to submit the information necessary for application of this Act and international regulations in the required extent and in the time limit specified by the Office, or information required for verification of compliance with conditions of the general authorisation, individual authorisation or obligations (Section 38, Subsections 1 and 2),
- b) failed to fulfil one or more obligations which were imposed, retained, changed or amended by the decision of the Office (Section 17, Subsection 1), or failed to fulfil the obligation to publish specific information (Section 18, Subsection 1) or failed to fulfil obligations imposed by the Office for protection of end-users' interests (Section 23, Subsection 1),

c) failed to issue or publish, or publish in time the General Conditions or their update (Section 40) or failed to issue or publish, or publish in time the Tariff (Section 41, Subsections 1),

d) failed to provide the minimum set of leased lines or its part and failed to provide for its required provision (Section 24, Subsection 3), or failed to provide the co-ordination or operational centre of integrated rescue system with the presentation of the calling line identification and location data in emergency calls, in case it was technically feasible (Section 59, Subsection 9),

e) operated radio or terminal telecommunications equipment without assessment of its conformity with the requirements of technical regulations (Section 35, Subsection 1), or operated radio facility without fulfilment of the conditions of general authorisation or without authorisation, or without issuance of the relevant type of authorisation (Section 35, Subsection 3 and 5), or in contradiction to the conditions of the authorisation (Section 32, Subsection 17),

f) failed to provide all users with uninterrupted access to all emergency numbers, including unified European emergency call number, or the possibility of dual tone multi-frequency dialling and the calling line identification (Section 39, Subsection 2), or failed to provide for necessary measures for operation and provision of public network, public service or provision of public network and public service during a crisis or extraordinary situation (Section 42, Subsection 6), or failed to ensure that any subscriber, upon request and when it is technically feasible, could retain his/her telephone number independently of the undertaking providing the service in specified cases (Section 48, Subsection 1),

g) failed to conclude contracts with the interested person without reason for its refusal [Section 42, Subsection 3 Letter a)],

h) charged prices exceeding the framework of the universal service so that user had to pay for equipment or service which are not essential or required for the requested service (Section 52, Subsection 1),

i) failed to contribute to the universal service special account (Section 54, Subsection 1),

j) failed to inform annually, at the request of the Office, on its turnover in the relevant market (Section 54, Subsection 3), failed to reimburse the costs of tests for verification of compliance of products with technical regulations [Section 37, Subsection 3, Letter c)],

k) failed to enable its users to choose undertaking on the call-by-call basis or by carrier pre-selection (Section 27, Subsection 1).

(4) The Office shall impose the fine up to SKK 1 000 000 or the equivalent in EUR to those that:

- a) failed to provide specified services free of charge (Section 41, Subsection 3) or failed to provide its users with some of defined services for the control of expenditures within the framework of the universal service (Section 52, Subsection 2),
- b) used the information that the operators received in the course of negotiation on the interconnection for another purpose or allowed its misuse by third parties in order to achieve competition advantage (Section 28, Subsection 3),
- c) operated selected radio facilities without having special professional qualification for their operation (Section 36, Subsection 1),
- d) failed to comply with the condition that public networks and associated facilities shall comply with technical standards and specifications for networks, services or networks and services (Section 39, Subsection 1) or failed to comply with the requirement of the Office for written justification of classifying information or supporting documents as subject of business confidentiality, or failed to provide their wording without the business confidentiality content (Section 58, Subsection 2),
- e) failed to publish or inform the Office on achieved results of network, service or network and service quality indicators (Section 51, Subsection 2),
- f) failed to inform subscribers about what personal data would be collected and processed, on the basis of what legal ground, for what purpose and how long the data would be processed, not later than at the concluding of the Contract on Connection (Section 57, Subsection 5),
- g) failed to erase personal data not later than on the date of termination of contractual relations (Section 57, Subsection 3),
- h) stored the traffic data after termination of the connection without consent of the person involved, or failed to erase them or make them anonymous at that time without delay (Section 59, Subsection 2), or stored the content of transmitted information, if its storing was not substantial part of the service (Section 60, Subsection 1),
- i) failed to notify the owner or user of the concerned real estate on execution of its rights related to the usage of real estates of the third parties at least 15 days in advance (Section 69, Subsection 3),
- j) failed to keep records on lines or failed to provide statement and further necessary data, upon request and within 15 days (Section 69, Subsection 8),
- k) failed to pay its share to the special account as determined by the Office within three months (Section 54, Subsection 6),
- l) used the compensation from the special account to cover other costs than the net costs and those other costs have not arisen due to provision of the relevant universal service obligation (Section 54, Subsection 5), or used a forbidden telecommunication facility for commercial purposes (Section 25, Subsection 3),

m) classified the price for interconnection as business confidentiality (Section 28, Subsection 6).

(5) The Office shall impose a fine up to SKK 500 000 or the equivalent in EUR on those that:

a) failed to provide, on the request of the Office, information necessary in elaboration and implementation of the Numbering Plan (Section 29, Subsection 4) or failed to provide, on the request of the Office, its financial statements for inspection (Section 46, Subsection 4),

b) failed to submit the report on use of numbers to the Office within the time limit stipulated in the decision of the Office on number assignment (Section 31, Subsection 4, Letter g)),

c) failed to specify details on the scope of the right of user in the claim procedure rules for claims related to the accuracy of payment and quality of public service, the method of making claim and its settling or the time limit for filing a claim and for its settling (Section 44, Subsection 1),

d) failed to ensure the processing of traffic data only by persons authorised to network, service or network and service operation management or by persons authorised by them (Section 59, Subsection 4) or failed to ensure the possibility for simple and free of charge restriction of identification presentation except for emergency calls [Section 62, Subsection 1, Letters a) to e)] or failed to ensure for each user the possibility, by simple means, independently and free of charge, of stopping the automatic call forwarding initiated by a third party to his/her terminal equipment (Section 63, Subsection 1),

e) made calls or sent for the purposes of direct marketing, without the prior user's consent, facsimile messages, electronic mail messages including short messages by means of public network, or sent electronic mail for the purposes of direct marketing, where the identity of the sender was not clear from it (Section 65, Subsection 2),

f) obtained and processed personal data of users for a different purpose than that stipulated (Section 57, Subsection 2),

g) processed traffic and location data on a user on the basis of phone numbers called from his/her accesses to the network except for their processing for the purposes of billing, or used the data for marketing purposes without user's consent (Section 59, Subsection 5),

h) failed to use data included in subscriber directory or processed them for purposes other than provision of the public telephone service without consent of concerned subscriber, or failed to adopt suitable technical measures for avoiding possibility of copying electronic subscriber directories (Section 61, Subsection 4),

i) failed to pay for frequency allotment or assignment or annual payment for use of each frequency (Section 33, Subsection 2),

j) failed to keep register of all users of its network [(Section 42, Subsection 3, Letter d)].

(6) When imposing a fine, the Office shall consider particularly the nature, seriousness, manner, duration, and consequences of the breach of obligation.

(7) Fine may be imposed repeatedly for a repeated breach of obligations.

(8) Fine may be imposed within two years after the breach of obligations was identified, nevertheless no later than four years after the date of violation.

PART SEVEN FINAL PROVISIONS

Section 72

Proceedings

(1) Unless stipulated otherwise herein, general regulations on administrative proceedings[31]) shall apply to proceedings pursuant to this Act.

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

a) consultations (Section 10),

b) issuance of general authorisations (Section 13),

c) notification obligation (Section 14),

d) definition of relevant markets and analysis of relevant markets (Sections 15 and 16),

e) determination of cost calculation method (Sections 22 to 24),

f) competitive selection procedure on assignment of frequencies (Section 32, Subsections 6 to 15),

g) issuance of certificates on special professional qualification (Section 38),

h) out-of-court dispute resolution (Section 73).

(3) The decision of the Office, pursuant to Subsection 1, may be appealed. The chairman of the Office shall decide on the appeal, on the basis of proposal of the special commission established by him.

(4) The Supreme Court of the Slovak Republic shall be competent in terms of subject matter to inspect decisions and proceedings of the Office[32]).

Section 73

Out-of-Court Dispute Resolution

(1) User shall be entitled to submit to the Office the dispute concerning accuracy of payment and quality of public service, especially regarding provision of the universal service, which was subject of claims procedure and whose handling did not satisfy the user. Undertaking and user as parties of the dispute proceeding shall be obliged and entitled to propose evidence and its completion and submit necessary documents required for material assessment of the case. The Office shall solve the submitted dispute with the aim to settle it and achieve agreement between the undertaking and user regarding the subject matter of the dispute.

(2) The Office shall be entitled, with a view to bringing about a settlement of the dispute, to invite expert independent of undertaking or use its own employees out-of-court dispute resolution. In the course of solving the dispute, the Office shall ensure protection of business confidentiality pursuant to Section 58.

Section 74

In disputes between an undertaking and parties from different member states of the European Union related to the field of regulation specified in Directives of the European Parliament and of the Council, the European Commission and that are under the competence of authorities of at least two member states of the European Union, the undertaking may request the Office for a solution of the dispute. The Office shall coordinate solving of the dispute with the concerned regulatory authorities of the member states of the European Union. The Office shall inform the European Commission on solution of the dispute.

Section 75

Solution of Disputes Concerning Access, Interconnection and Co-location and Facility Sharing

(1) All disputes between undertakings with regard on obligations imposed pursuant to this Act are solved by the Office. In case that the contract between undertakings is not concluded within six weeks following delivery of the request to conclude the contract pursuant to Sections 21, 28 and each party shall be entitled to file a proposal for decision to the Office. The Office shall issue the decision imposing an obligation for relevant undertakings to conclude the contract or it shall refuse the request. Due to significance of such disputes and their impact on provision of public services, the Office shall be obliged to decide as soon as possible, in exceptional cases it shall be entitled to prolong the period for passing the decision to the maximum of four months

(2) If suggested contracts on access, interconnection or facility sharing limit the competition in the relevant market, impair other undertaking or user, or the content of the contracts is in contradiction with the provisions of this Act or with decision or measure of the Office issued under this Act, the Office, in performing the regulation, shall be entitled, on the proposal of the undertaking or its own initiative, to intervene into negotiations on conclusion of such contracts, assess their preparation, request from the contracting parties a specification of issues to be included in contracts, and impose a measure in case of detected shortcomings. The Office shall be entitled to stipulate detailed technical and operational conditions of interconnection and methodology of calculation of prices or of share on revenues for interconnection.

(3) The Office shall be entitled, of its own initiative or upon the proposal of the undertaking, to suspend the execution of the contract on access, interconnection of networks or co-location and facility sharing, if technical, operational or financial conditions of the contract limit the competition in the relevant market, impair other undertaking or user or if content of the contract is in contradiction with provisions of this Act or with decision or measure of the Office issued on the basis of this Act.

Section 76

Transitional Provisions

(1) The Telecommunications Office of the Slovak Republic under currently valid regulations shall be the Telecommunications Office of the Slovak Republic pursuant to this Act

(2) Proceedings initiated before 31 December 2003 have to be completed pursuant to the existing legal regulations. Proceedings initiated under the existing legal regulations, not necessarily to be completed with regard to the provisions of this Act, shall be stopped by the Office.

(3) Type approved telecommunications facilities forming part of public telecommunications network, may be placed on the market by 31 December 2003 at the latest, unless the validity of decision on approval expires earlier.

(4) The licences to perform telecommunications activities issued before 31 December 2003, shall be considered as general authorisation pursuant to Section 13 and fulfilment of notification obligation pursuant to Section 14. Numbers and frequencies assigned under these licences shall be deemed an individual authorisation pursuant to Section 31 and 32 until their validity expires. The rights and obligations resulting from the licences shall remain to be valid. The Office shall change and amend these rights and obligations within nine months after the effective date of this Act, provided they are not in accordance with the provisions of Sections 6, 12 to 14, 31 to 34, 38 and 50, Subsection 4.

(5) The general authorisation issued by 31 December 2003 shall be considered as general authorisation pursuant to Section 13. Registration existing before 1 January 2004 shall be considered as fulfilment of notification obligation pursuant to Section 14, if the operator informs the Office on data stipulated in Section 14, Subsection 2 in a verifiable

way by the end of February 2004, otherwise the right to perform telecommunications activities shall terminate.

(6) If networks, services or networks and services not requiring the registration pursuant to existing regulation are provided before 31 December 2003, their operators or providers shall be obliged to provide the data necessary for fulfilment of notification obligation pursuant to Section 14 to the Office by the end of February 2004, otherwise the right for provision of these networks, services or networks and services shall terminate after a lapse of the aforementioned term.

(7) The Office shall perform the first analysis of relevant markets pursuant to Section 16 within six months since the effective date of this Act. The list of relevant markets shall be defined by the Office within two months after the effective date of this Act.

(8) The rights and obligations of the operator designated by the Office before 31 December 2003 as a significant market power operator in the telecommunications market shall remain intact until the decision of the Office on the designation of significant undertaking pursuant to this Act becomes effective.

(9) The provider of the public telecommunications service that was obliged to provide the universal service before 31 December 2003 is obliged to provide this service until the decision of the Office designating the provider of the universal service becomes effective.

(10) The provider of public telecommunications service, whose licence included the obligation to provide public telegraph and telex service, is obliged to provide this service until the decision of the Office on their further provision becomes effective.

(11) Decisions on number assignment and on authorisation to operate radio facilities issued by 31 December 2003 shall be considered individual authorisations pursuant to Section 12, Subsection 1).

(12) Relations established under existing regulations by 31 December 2003 between operators of public telecommunications network and providers of public telecommunications services on one side and the users on the other, shall be considered the Contracts on Connection pursuant to this Act.

Section 77

Cancelling Provisions

The following documents shall be cancelled:

1. Act No. 195/2000 Coll. on Telecommunications in the wording of Act No. 308/2000 Coll.,

2. Decree of the Federal Ministry of Communications No. 50/1985 Coll. by which the Order of Wire Radio was issued, as amended by Decrees No. 75/1987 Coll., No. 38/1988 Coll., and No. 314/1990,

3. Decree of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic No. 97/2001 Coll. on Minimum Set of Telecommunications Lines,
4. Decree of the Ministry of Transport, Posts and Telecommunications of the Slovak Republic No. 142/2001 Coll. setting details on selected radio facilities, establishment of the Examination Committee, on the content, extent, and procedure of the exam, and on certificates on special professional capability,
5. Ruling of the Federal Ministry of Communications No. 8691/75-T/1 by which the Telex Order was issued (registered in part No. 8/1977 Coll.), as amended by Ruling No. 34698/90-030 (registered in part No. 54/1990 Coll.),
6. Ruling of the Federal Ministry of Communications No. 9501/82 by which the Data Transmission Service Order (registered in part 36/1982 Coll.) was issued,
7. Ruling of the Federal Ministry of Communications and Federal Ministry of Transport No. 12884/84-SIE on safeguarding of underground telecommunications lines and equipment against damage by third parties encroachments (registered in part No. 1/1985 Coll.),
8. Measure of the Federal Ministry of Communications No. 9465/71-T by which the Telegraph Order was issued (registered in part No. 18/1972 Coll.), as amended by Measure No. 2537/85-T/1 (registered in part No. 8/1985 Coll.) of Ruling No. 33342/90-110 (registered in part No. 81/1990 Coll.),
9. Directive of the Federal Ministry of Communications for execution of the Construction Law in the sector of communications and on process of approval of telecommunications buildings not subject to construction permit (registered in part 32/1978 Coll.).

Section 78

Effective Date

This Act shall enter into force on 1 January 2004, with the exception of provisions of Section 6, Subsection 3, Letter e), Section 8, Subsection 1, Letter e), Section 9, Section 10, Subsection 3 to 5, and Subsection 6 the second sentence, Section 15, Subsection 3 to 4, Section 17, Subsection 4, Section 28, Subsection 2, Section 46, Subsection 1; Section 48, Section 50, Subsection 7; Section 62, Subsection 3, the last sentence and Section 74, which shall become effective on the day of entering into force of the Accession treaty of the Slovak Republic with the European Union.

Annex No. 1 to the Act No. 610/2003 Coll.

List of Transposed Directives

By this Act the following Directives shall be transposed:

1. Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive), OJ No. L 108 of 24 April 2002, pp. 33-50.

2. Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services ("Authorisation Directive), OJ No. L 108 of 24 April 2002, pp. 21-32.
3. Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive), OJ No. L 108 of 24 April 2002, pp. 7-20.
4. Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), OJ No. L 108 of 24 April 2002, pp. 51-77.
5. Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), OJ No. L 201 of 31 July 2002, pp. 37-47.

Translated versions of these directives are available in the Central Translation Unit, the Institute for Approximation of Law of the Slovak Republic Government Office.

Annex No. 2 to the Act No. 610/2003 Coll.

MINIMUM LIST OF ITEMS TO BE INCLUDED IN A REFERENCE OFFER
FOR UNBUNDLED ACCESS TO THE LOCAL LOOP

A. Conditions for unbundled access to the local loop

1. Network elements access to which is offered cover in particular:
 - (a) access to local loops,
 - (b) access to non-voice band frequency spectrum of a local loop in the case of shared access to the local loop.
2. Information on locations of physical access sites[33]) and availability of local loops in specific parts of the access network.
3. Technical conditions related to access and use of local loops, including the technical characteristics of the twisted metallic pair in the local loop.
4. Ordering and provisioning procedures, usage restrictions.

B. Co-location services

1. Information on relevant sites¹) of the significant undertaking.
2. Co-location options at the sites indicated under point 1 (including physical co-location and, as appropriate, distant co-location and virtual co-location).

3. Possible restrictions on equipment which can be co-located.
4. Measures put in place by significant undertaking to ensure security of their locations.
5. Access conditions for the staff of competitive undertakings.
6. Safety standards.
7. Rules for allocation of space in case of limited space for co-location.
8. Conditions for undertakings to inspect the locations at which physical co-location is available or sites where co-location has been refused on grounds of lack of capacity.

C. Information systems

Conditions for access to operational support systems or to databases of significant undertaking for pre-ordering, provisioning, ordering, requests for maintenance, repairs and billing.

D. Supply conditions

1. Lead time for responding to requests for supply of services and facilities; service level agreements, fault resolution, procedures to return to a normal level of service and quality of service parameters.
2. Standard contractual conditions, including, where appropriate, compensation provided for failure to meet lead times.
3. Prices or pricing formulae for each item, function and facility listed above

Annex No. 3 to the Act No. 610/2003 Coll.

CONDITIONS TO BE INCLUDED IN A REFERENCE OFFER FOR THE LEASED LINES TO AN UNDERTAKING

A reference offer shall have to

A. follow the principles of non-discrimination, cost-orientation and transparency,

B. contain:

a) technical characteristics, including physical and electrical parameters, as well as detailed technical specification for network termination points,

b) price of the initial connection, regular rental prices and other prices; if the prices are differentiated, it is necessary to state this fact; if, in case of a particular request, an undertaking with significant market power considers it unreasonable to provide the leased line in the minimum set under the published prices and supply conditions, the undertaking shall be obliged to ask the Office for a variation in the conditions,

c) supply conditions containing at least:

1. ordering procedure,
2. delivery period, i.e. period in which 95 % of all leased lines of the same type were provided; the period shall be counted from the date on which the application for lease of a line was submitted and it shall be established on the basis of actual delivery periods of leased lines during last six months; the calculation does not include cases, when users asked for a longer period of leasing of lines,
3. the contractual period,
4. the standard period of the fault removal, which shall be counted from the moment of reporting the fault to a responsible unit of the undertaking with significant market power and ends up to the moment in which 80 % of all leased lines of the same type were again put into operation and in specified cases up to the announcement of the undertaking on the leased line being back in operation; where different classes of quality of repair are offered for the same type of leased lines, different standard periods of fault removal must be published,
5. all methods of reimbursement.

[1] Decree of the Ministry of Foreign Affairs No. 190/1968 Coll. on International Convention on Telecommunications, Montreux 1965.

[2] Section 43a, Subsection 3, Letters h) and i) and Section 139a, Subsection 10 of Act No. 50/1976 on Territorial Planning and Construction Order (Construction Law) as amended by Act No. 237/2000 Coll.

[3] Decree of the Government of the Slovak Republic No. 453/2002 Coll. on Procedures at provision of information in the area of technical regulations and technical standards.

[4] Section 2 of Act No. 634/1992 Coll. on Consumer Protection.

[5] Section 4, Subsection 1 of the Act of the National Council of the Slovak Republic No. 18/1996 Coll. on Prices as amended by Act No. 196/2000 Coll.

[6] Section 5 of Act No. 264/1999 Coll. on Technical Requirements for products and on conformity assessment and on change and amendment of some acts in the wording of the Act No. 436/2001 Coll.

[7] Art. 2, Clause 3 and Art. 3, Clause 3 of Constitutional Act No. 227/2002 Coll. on Security of the State at the Time of War, Belligerency, Extraordinary Situation and Emergency Situation.

[8] Section 21, Subsection 4, Letter a) of Act of the National Council of the Slovak Republic No. 303/1995 Coll. on Budget Rules as amended.

[9] Act No. 312/2001 Coll. on State service and on change and amendment of some acts as amended.

[10] Section 17 to 20 Commercial Code.

[11] Section 43 of Act No. 71/1967 Coll. on Administrative Proceedings (Administrative Code).

[12]& Section 2, Subsection 2 of Act No. 166/2003 Coll. on Protection of Privacy against Illegal Use of Information and Technical Means and on Change and Amendment of Some Acts (on Protection against Interception) and Section 12, Subsection 1 of Act No. 141/1961 Coll., Criminal Code.

[13] Art. 1, Subsection 4 of Constitutional Act No. 227/2002 Coll. Section 3, Subsection 2 of Act of the National Council of the Slovak Republic No. 42/1994 Coll. on Civil Protection of Citizens as amended by Act No. 117/1998 Coll. Section 2, Letter a) of Act No. 387/2002 Coll. on Management of State in Crises apart from the Time of War and Warfare, Section 2, Letter s) of Act No. 414/2002 Coll. on Economic Mobilisation and on Change of Act of the National Council of the Slovak Republic No. 274/1993 Coll. on define of powers of the authorities in consumer protection matters as amended.

[14] Section 9, Subsection 3 and Section 12, Subsection 8 of Act No. 264/1999 Coll., Order of the Government of the Slovak Republic No. 394/1999 Coll. setting details of technical requirements for products with regard to electromagnetic compatibility as amended, Order of the Government of the Slovak Republic No. 443/2001 Coll. setting details of technical requirements and on conformity assessment procedures for radio and telecommunications terminal equipment.

[15] Section 3, Subsection 3 of Act No. 136/2001 Coll. on Competition Protection and on Change and Amendment of Act of the Slovak National Council No. 347/1990 Coll. on organisation of the ministries and other State administration authorities of the Slovak Republic as amended.

[16] Section 8, Subsection 3 of Act No. 136/2001 Coll.

[17] Section 49, Subsection 3 of Act No. 308/2000 Coll. on Broadcasting and Re-transmission.

[18] Section 116 of the Civil Code.

[19] Sections 476 to 488 of the Commercial Code as amended.

[20] Act of the National Council of the Slovak Republic No. 233/195 Coll. on Court Executors and Execution Activity (Execution Order) and on Change and Amendment of Other Acts as amended.

[21] Sections 251 to 275 of the Civil Code.

- [22] Act No. 328/1991 Coll. on Bankruptcy and Settlement as amended.
- [23] Sections 53 to 63 of Act No. 308/2000 Coll.
- [24] Section 17 of Act No. 431/2002 Coll. on accounting.
- [25] Section 2 of Act No. 166/2003 Coll., Section 88 of Act No. 141/1961 Coll.
- [26] Section 2 of Act No. 166/2003 Coll., Section 88 of Act No. 141/1961 Coll.
- [27] Section 10 of Act No. 129/2002 Coll. on Integrated Rescue System.
- [28] Section 151, Letter n) to Section 151, Letter p) of the Civil Code.
- [29] Section 35 of Act No. 162/1995 Coll. on the Cadaster of real estates and the entry of ownership and other rights to real estates.
- [30] Section 35, Subsection 1 and Section 60 of Act No. 50/1976 Coll.
- [31] Act No. 71/1967 Coll. as amended.
- [32] Section 246, Subsection 2, Letter b), Civil Court Rule as amended by Act No. 424/2002 Coll.
- [33] Availability of these information may be restricted to the parties concerned only in the case of public security interests.