



REPUBLIC OF CROATIA

***MINISTRY OF THE SEA, TRANSPORT AND
INFRASTRUCTURE***

***ACT
ON AMENDMENTS TO THE
ELECTRONIC COMMUNICATIONS ACT
(Official Gazette No. 90/11)***



Zagreb, August 2011

ACT ON AMENDMENTS TO THE ELECTRONIC COMMUNICATIONS ACT

Article 1

In the Electronic Communications Act (Official Gazette No. 73/08), Article 1 is amended to read:

"This Act regulates the electronic communications sector, including the use of electronic communications networks and the provision of electronic communications services, the provision of universal services and the protection of users' rights, construction, installation, maintenance and use of electronic communications infrastructure and associated facilities, competition and rights and obligations of participants in the market of electronic communications networks and services, efficient management of the radio frequency spectrum and the addressing and numbering space, digital radio and television, data protection, security and integrity of electronic communications networks and services, and the performance of inspection and control in electronic communications, as well as the establishment of a national regulatory authority for electronic communications and postal services and its organisation, scope and competence, including the decision-making procedure and resolution of disputes concerning electronic communications."

Article 2

In Article 2, paragraph 1 is amended to read:

"(1) In this Act, individual terms shall have the following meanings:

1. **address**: the total of all components of addressing (signs, letters, digits and signals) used to determine the destination of a connection,
2. **BEREC**: Body of European Regulators for Electronic Communications,
3. **numbers**: series of digits used for addressing in electronic communications networks,
4. **provision of electronic communications networks and services**: installation, management and making available of electronic communications networks and electronic communications infrastructure and associated facilities, as well as the provision of electronic communications services,
5. **assignment of addresses and numbers**: the transfer of rights to use numbers and addresses without the transfer of ownership over numbers and addresses,
6. **electromagnetic compatibility (EMC)**: the ability of a device, unit of equipment or system to function satisfactorily in its electromagnetic environment without introducing intolerable electromagnetic disturbances to other equipment or systems in that environment,
7. **electronic communications network**: transmission systems and, where applicable, switching or routing equipment and other resources, including inactive network elements, which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, broadcasting

- networks, and cable television networks, irrespective of the type of information conveyed,
8. ***electronic communications infrastructure and other associated facilities***: the infrastructure and facilities associated with an electronic communications network and/or electronic communications service which enable or support the provision of services via that network and/or service, including, in particular, ducts, antennae masts, buildings and other associated buildings and equipment, and conditional access systems and electronic programme guides,
 9. ***electronic communications equipment***: equipment used for the provision of electronic communications networks and services,
 10. ***electronic communications service***: a service normally provided for remuneration which consists wholly or mainly in the conveyance of signals on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting, but exclude services providing, or exercising editorial control over content transmitted using electronic communications networks and services. This service does not include information society services which do not consist wholly or mainly of the conveyance of signals on electronic communications networks,
 11. ***electronic mail***: any text, voice, sound or image message sent over a public communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient,
 12. ***electronic communications***: making available of electronic communications networks and/or the provision of electronic communications services,
 13. ***electronic communications line***: an underground or surface wire, optical or related line between access points of an electronic communications network with the relevant interface, without the switching function,
 14. ***electronic programme guide***: a guide through radio and television programmes on the television screen,
 15. ***ENISA***: European Network and Information Security Agency,
 16. ***European Telephony Numbering Space (ETNS)***: all numbers starting with access code 3883,
 17. ***infrastructure operator***: a legal or a natural person using own property and/or property of others for the purpose of construction, maintenance, development and use of the electronic communications network and electronic communications infrastructure, or which has been granted the right of way pursuant to this Act, or is obliged to provide access to electronic communications infrastructure and associated facilities on the basis of market analysis of the relevant market conducted pursuant to this Act,
 18. ***unbundled access to local loop***: comprises full unbundled access to the local loop and shared access to the local loop, without the change in ownership of the local loop,
 19. ***public communications network***: an electronic communications network used wholly or mainly for the provision of publicly available electronic communications services which supports the transfer of information between network termination points,
 20. ***public communications service***: electronic communications service publicly available on a market basis,
 21. ***public pay telephone***: a telephone device available to the general public, for the use of which the means of payment may include coins credit/debit cards or pre-payment cards, including cards for use with dialling codes,
 22. ***publicly available telephone service***: a service made available to the public for originating and receiving, directly or indirectly, national calls or national and

- international calls through a number or numbers in a national or international telephone numbering plan,
23. **Commission:** European Commission,
 24. **communication:** any information exchanged or conveyed between a finite number of parties by means of a publicly available electronic communications service. This does not include any information broadcasted as part of radio and television activities to the public over an electronic communications network, except for information that can be related to an identifiable subscriber or user receiving the information,
 25. **user:** a legal or a natural person using or requesting a publicly available electronic communications service for private or business purposes whereby that person is not necessarily a subscriber of this service,
 26. **end-user:** a user not providing electronic communications networks and services,
 27. **local loop:** the physical circuit connecting the network termination point to a distribution frame or equivalent facility in the fixed public electronic communications network,
 28. **Ministry:** central state administration body competent for electronic communications,
 29. **Minister:** head of the central state administration body competent for electronic communications,
 30. **interconnection:** a special access between operators of public communications networks establishing physical and logical linking of communications networks used by the same or several different operators in order to allow the users of one operator to communicate with users of the same or of other operators or to access services provided by other operators where services may be provided by interconnected parties or other parties who have access to the network,
 31. **multiplex:** a stream of digital signals containing several radio or television programmes and/or other data simultaneously transferred via one radio frequency channel,
 32. **unsuccessful call attempt:** a communication where a telephone call has been successfully connected but not answered or there has been a network management intervention,
 33. **non-geographic number:** a number from the national Numbering Plan which is not a geographic number, and comprises, *inter alia*, mobile, freephone and single access number services, and numbers for special tariff services,
 34. **carrier selection:** a service which enables the users, by selecting the provider of public communications services mediating in the realization of the connection, to realize the preselected types of connections in the fixed public communications network. Carrier selection may be programmed in advance or realized by selecting the dialling code or by applying another procedure for such diverting,
 35. **general authorisation:** the right to install, use and offer for use an electronic communications network and to provide electronic communications services in the territory of the Republic of Croatia without obtaining a special license in accordance with the conditions laid down in this Act and regulations adopted pursuant to this Act,
 36. **operator:** a legal or a natural person providing or authorised to provide a public communications service, or to make available a public communications network or associated facilities,
 37. **beneficiary operator:** an operator who, pursuant to this Act, uses electronic communications infrastructure of the infrastructure operator for the purpose of installation and use of its own electronic communications network. The beneficiary operator is neither the owner nor the holder of another real right or the right of way over electronic communications infrastructure,

38. **operator of special tariff services:** operator authorised to provide special tariff services pursuant to an access or interconnection agreement,
39. **Addressing Plan:** all possible combinations of addressing elements which are used for the unique identification of persons, computer processes, machines, devices or the electronic communications equipment which is included in the procedure of establishing a connection,
40. **Numbering Plan:** all possible combinations of addressing elements by means of digits for the purpose of unique identification of persons, computer processes, machines, devices or electronic communications equipment which is included in the procedure of establishing a connection,
41. **location data:** any data processed in an electronic communications network or by an electronic communications service, indicating the geographic position of the terminal equipment of a user of a publicly available electronic communications service,
42. **consumer:** any natural person using a publicly available electronic communications service or requesting such service for purposes which are outside his/her trade, business or profession,
43. **associated facilities:** associated services, physical infrastructures and other facilities or elements associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so, and include, *inter alia*, buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes and cabinets,
44. **associated services:** services associated with an electronic communications network and/or an electronic communications service which enable and/or support the provision of services via that network and/or service or have the potential to do so, and include, *inter alia*, number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides, as well as other services such as identity, location and presence service,
45. **personal data breach:** a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed in connection with the provision of a publicly available electronic communications service in the Community,
46. **call:** a connection established by means of a publicly available electronic communications service allowing two-way voice communication,
47. **right of way:** the right of access, installation, use, repair and maintenance of electronic communications network and electronic communications infrastructure and other associated facilities, including ducts, and other related rights, which impose a burden on a real estate on which the electronic communications infrastructure and other associated facilities have been constructed,
48. **carrier pre-selection:** a service providing that subscribers, by means of a programmed preselection of public communication services provider that mediates in the establishment of the connection (who has a contract with a subscriber), establish pre-selected types of communications connections in a fixed public communications network without dialling a dialling code or without applying any other procedure for such diverting,
49. **transnational markets:** markets identified in accordance with the relevant European Union directive which, in the geographical dimension, cover the Community or a substantial part thereof located in more than one Member State,
50. **number portability:** the possibility provided to the end-user of publicly available telephone services, including services in a mobile electronic communications network,

at his/her own request, to keep the number which was assigned to him/her irrespective of the change of the operator,

51. **subscriber:** any legal or natural person who or which is party to a contract with the provider of publicly available electronic communications services for the supply of such services,
52. **network termination point:** a physical connection point at which a subscriber is provided with access to public telecommunications network. In networks involving switching or routing, network termination point is recognised by means of a special network address which may be connected to the subscriber's number or name, or company name,
53. **access:** making available of facilities and/or services to another undertaking, under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing electronic communications services, including when they are used for the delivery of information society services or broadcast content services. It covers *inter alia*: access to network elements and associated facilities, which may involve the connection of equipment, by fixed or non-fixed means (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop), access to physical infrastructure including buildings, ducts and masts, access to relevant software systems including operational support systems, access to information systems or databases for pre-ordering, provisioning, ordering, maintaining and repair requests, and billing, access to number translation or systems offering equivalent functionality, access to fixed and mobile networks, in particular for roaming, access to conditional access systems for digital television services and access to virtual network services,
54. **consent:** any freely given specific and informed indication of the wishes of the user or subscriber expressing his/her agreement to personal data relating to him/her being processed for certain purposes,
55. **traffic data:** any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the purpose of accounting and billing,
56. **radio equipment:** a product or its corresponding component which enables communication by transmitting and/or receiving radio waves with the use of the radio frequency spectrum intended for terrestrial/satellite radio communications,
57. **radio station:** one or more transmitters or receivers, or a combination of transmitters and receivers, including the associated equipment, which is necessary in a single place for providing the radio communication service,
58. **radiocommunications:** electronic communications via radio waves,
59. **radio:** electronic communications comprising conveyance, transmitting and/or receiving sound, voice, speech or other signals intended for direct reception by the public,
60. **broadcasting:** radio communications comprising conveyance, transmitting and/or receiving of analogue or digital radio and/or television signal via terrestrial transmitters or satellites,
61. **radio frequency spectrum:** electromagnetic waves in frequencies between 9 kHz and 3000 GHz propagated in space without artificial guide,
62. **radiocommunications service:** a type of radio communications pursuant to Radio Regulations of the International Telecommunication Union (ITU),
63. **R&TT equipment:** radio equipment and telecommunications terminal equipment,
64. **interference:** an effect of unwanted energy upon reception in a radiocommunications system caused by emissions, radiations or inductions or a combination thereof,

- manifested by any performance degradation, misinterpretation or loss of information which could be extracted in the absence of such unwanted energy,
65. **interface:** a network termination point or a radio connection determining the radio path between radio equipment, together with their technical specifications,
 66. **application programme interface:** a programme interface between application programmes made available by electronic media broadcasters or service providers, as well as means in advanced digital equipment for digital radio and television services,
 67. **conditional access system:** any technical measure or arrangement whereby access to protected services in intelligible form is made conditional upon subscription or other form of prior individual authorisation,
 68. **harmful interference:** interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable regulations,
 69. **telecommunications terminal equipment:** a product enabling communication or a relevant component thereof which is intended to be connected directly or indirectly by any means whatsoever to interfaces of public electronic communications networks used wholly or partly for the provision of publicly available electronic communications services,
 70. **television:** electronic communications comprising conveyance, transmitting and/or receiving image and sound and other data intended for direct reception by the public,
 71. **universal services:** a minimum scope of services of a certain quality determined in accordance with the relevant European Union directive, which are available at an affordable price to all end-users in the entire territory of the Republic of Croatia regardless of their geographic location,
 72. **harmonised radio frequency band:** a radio frequency band which is in all European countries intended for use in radio systems with identical technical specifications (radio frequency, modulation, power, etc.),
 73. **special tariff service:** a service provided via public communications networks and services by means of special numbers or special codes from the Numbering Plan or the Addressing Plan, for the purpose of realisation of predetermined additional contents and/or services within these contents outside the scope of public communications,
 74. **geographic number:** a 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."

Article 3

Article 3 is amended to read:

"Electronic communications infrastructure, the provision of electronic communications networks and services, physical planning, construction, maintenance, development and use of electronic communications networks, electronic communications infrastructure and other associated facilities, and the management and use of the radio frequency spectrum and the addressing and numbering space as naturally limited public resources shall be of interest for the Republic of Croatia."

Article 4

In Article 4, paragraph 3, subparagraph 2 is amended to read:

"– it may provide guidelines to the Croatian Post and Electronic Communications Agency concerning the implementation of the established principles and policy objectives related to the development of electronic communications, whereby these guidelines, which have to be made publicly available, may not influence the adoption of decisions by the Croatian Post and Electronic Communications Agency on a case by case basis,".

Paragraph 6 is deleted.

Article 5

Article 5 is amended to read:

"(1) The Croatian Post and Electronic Communications Agency (hereinafter: the Agency) is a national regulatory agency carrying out regulatory and other activities within the scope and competences laid down in this Act and a specific law regulating the postal services sector.

(2) While carrying out the regulatory activities laid down in this Act, the Agency shall be obliged to undertake all the appropriate measures for the achievement of regulatory principles and objectives provided for in paragraphs 3, 4 and 5 of this Article, while at the same time respecting the principles of objectivity, transparency, non-discrimination and proportionality, in particular by:

1. promoting regulatory predictability by ensuring a consistent regulatory approach by means of appropriate verification periods,
2. preventing discrimination against operators of electronic communications networks and services in similar circumstances,
3. protecting competition for the benefit of end-users and by promoting, where appropriate, infrastructure-based competition,
4. promoting efficient investment and innovation in new and enhanced infrastructure in the manner ensuring that any obligation of access takes appropriate account of the investment risk, and making possible different kinds of cooperation agreements between investors into infrastructure and parties seeking access to diversify the risk of investment, whilst ensuring that competition in the market and the principle of non-discrimination are preserved,
5. taking into account the different conditions related to end-users and competition in different geographical areas within the country,
6. imposing ex-ante regulatory obligations in case of lack of efficient and sustainable competition, and by reducing and withdrawing these obligations when the requirement has been fulfilled,
7. encouraging interoperability between electronic communications networks and electronic communications services.

(3) The Agency shall promote competition in the provision of electronic communications networks and services and electronic communications infrastructure and associated facilities, in particular by:

1. ensuring that users, including disabled users, the elderly and people with special social needs, derive maximum benefit in terms of choice, price and quality of service,
2. preventing the distortion or restriction of competition in the electronic communications sector, including transmission of content,
3. encouraging efficient use and ensuring the effective management of the radio frequency spectrum and addressing and numbering space.

(4) The Agency shall promote interests of users, in particular by:

1. ensuring that all users have access to universal services pursuant to the provisions of this Act,
2. ensuring a high level of protection of users in their relations with operators, in particular by making available simple and inexpensive dispute resolution procedures pursuant to the provisions of this Act,
3. ensuring a high level of protection of personal data and privacy,
4. promoting the provision of clear information, in particular concerning the publication and transparency of prices and conditions of use of publicly available electronic communications services, and providing comparable information to end-users by operators of public communications services, for example by means of interactive guides or similar technical procedures whereby such guides or similar technical procedures may be ensured by the Agency or the Agency may entrust a third party with their provision under the procedure and conditions laid down in the ordinance referred to in Article 34 of this Act,
5. addressing the needs of special social groups, in particular disabled users, the elderly and people with special social needs,
6. ensuring the integrity and security of public communications networks,
7. promoting the ability of end-users to access and distribute information or run applications and services of their choice,
8. in cooperation with other competent authorities, promoting cooperation between operators of public communications services and groups for promoting lawful content in electronic communications networks and services.

(5) The Agency shall contribute to the development of the internal market of the European Union, in particular by:

1. removing the remaining obstacles to the provision of electronic communications networks and services and electronic communications infrastructure and associated facilities at the European level,
2. encouraging the establishment and development of trans-European networks and the interoperability of pan-European services, and end-to-end connectivity,
3. cooperating with other competent national regulatory authorities, the Commission and BEREC in order to ensure the development of consistent regulatory practice and consistent application of the relevant *acquis communautaire*,
4. cooperating with other competent national regulatory authorities and the Commission in strategic planning, coordination and harmonisation of use of the radio frequency spectrum at the European level by taking into account, *inter alia*, economic, safety, health, cultural, scientific, social and technical requirements as well as principles of the freedom of expression and public interest of European Union policies, and different interests of users of the radio frequency spectrum for the purpose of optimum use of the radio frequency spectrum and avoidance of harmful interferences,
5. cooperating with other competent national regulatory authorities and the Commission on promoting coordinated approach to the radio frequency management policy at the

European level, and, where appropriate, on the harmonisation of conditions related to availability and efficient use of the radio frequency spectrum for the purpose of establishment and functioning of the European Union internal market for electronic communications.

(6) While carrying out of regulatory tasks provided for in this Act, the Agency shall not seek or take instructions from any other body.

(7) While carrying out of regulatory tasks provided for in this Act, the Agency shall take the utmost account of the relevant *acquis communautaire* in the electronic communications and competition sectors, and of recommendations and guidelines adopted by the Commission, as well as of the opinions and common positions adopted by BEREC, for the purpose of consistent application of the relevant *acquis communautaire* in Member States of the European Union.

(8) When adopting a decision not to apply a Commission recommendation or guideline referred to in paragraph 7 of this Article, the Agency must notify the Commission thereof and specify the reasons for adopting such a decision."

Article 6

In Article 6, paragraph 4, subparagraph 3, a full stop at the end of the sentence is replaced by a comma, and subparagraphs 4, 5 and 6 are added after subparagraph 3 to read:

"– the authority competent for personal data protection in accordance with this Act and a specific law regulating personal data protection,
– the authorities competent for the coordination of prevention of and protection from computer threats to the security of information systems, in accordance with a specific law regulating information security, and ENISA's recommendations,
– the authority referred to in Article 108, paragraph 1 of this Act, in accordance with a specific law regulating national security."

Article 7

In Article 8, paragraph 6 is amended to read:

"To be appointed member of the Agency's Council a person must be a Croatian citizen resident in the Republic of Croatia with completed graduate university studies or specialised university studies in the electronic communications, postal services, law or economics. The person must have appropriate work experience and must be fluent in at least one foreign language (English, French or German). At least one member of the Agency's Council must have completed graduate university studies or specialised graduate studies in electronic communications, postal services, law or economics. Members of the Agency's Council must have at least five years of work experience in the electronic communications or postal services sector."

Paragraph 7 is amended to read:

"(7) Members of the Agency's Council may not be state officials, persons active in bodies of political parties, bodies of units of local and regional self-government or unions, or persons employed in, having influence in or performing other duties in legal persons subject to the application of the provisions of this Act or a specific law regulating postal services. They may not be members of their management bodies, supervisory boards or management councils. They may not be owners, shareholders or stockholders in legal persons subject to the application of provisions of this Act or a specific law regulating postal services or carry out other business activities that might result in the conflict of interest."

Article 8

Article 9 is amended to read:

"(1) The Croatian Parliament shall adopt a decision dismissing the Chairman, Deputy Chairman or a member of the Agency's Council before the expiry of their term of office, upon proposal of the Government of the Republic of Croatia, in the following cases:

1. upon his/her request,
2. if it is established that, when he/she was proposed to become a member of the Agency's Council, he/she gave false information or failed to give information about circumstances important for his/her proposal for appointment,
3. if his/her work or behaviour brings into question his/her reputation or the Agency's reputation, or his/her independence and autonomy or independence and autonomy of the Agency,
4. if he/she is unable to properly carry out his/her duty for more than six months in the row,
5. if he/she has become permanently unable to perform his/her duty as a result of illness,
6. if he/she has been convicted of a criminal offence,
7. if his/her work or behaviour prevents the fulfilment of objectives and tasks defined in the Agency's annual work programme,
8. the occurrence of circumstances referred to in Article 8, paragraph 7 of this Act.

(2) The Agency must inform the Government of the Republic of Croatia of the existence of reasons for dismissal of the Chairman, Deputy Chairman or a member of the Agency's Council before the expiry of their term of office.

(3) The Chairman, Deputy Chairman or a member of the Agency's Council may not be appointed members of a management board, supervisory board or management council in legal persons subject to the application of provisions of this Act or a specific law regulating the postal services sector for one year following their dismissal from duty.

(4) The Chairman, Deputy Chairman and members of the Agency's Council, after their dismissal from duty in case referred to in paragraph 1, item 1, unless he/she requests dismissal before the expiry of the period of one year following his/her appointment, items 4 and 5 of this Article, as well as after the expiry of their term of office, shall be entitled to a remuneration amounting to the full salary for this position for six months after their dismissal from duty, and for another six months to a remuneration amounting to 50% of the salary for this position, until they start receiving salary on another basis or until they become eligible for retirement in accordance with general legislation. By way of derogation, persons referred to in

this paragraph, who have less than one year to retirement pursuant to general legislation after their dismissal from duty or the expiry of their term of office, shall be entitled to a remuneration amounting to the full salary for this position until they become eligible for retirement, but for a maximum of one year.

(5) The decision of the Croatian Parliament referred to in paragraph 1 of this Article must be reasoned and it is published in the Official Gazette and on the Agency's website."

Article 9

In Article 10, paragraph 10 is amended to read:

"(10) Employment rights of administrative service employees shall be regulated by the Agency's bylaws pursuant to general labour legislation. Employees of the Agency's administrative service shall conclude employment contracts with the Director of the Agency."

Article 10

Article 11 is amended to read:

"(1) The Agency's Council shall adopt a decision dismissing the Director of the Agency before the expiry of his/her term of office in accordance with the procedure and in cases prescribed by the Institutions Act, and in the following cases:

1. upon his/her request,
2. if it is established that, during public competition for the appointment of the Director of the Agency, he/she gave false information or failed to give information about circumstances important for his/her appointment,
3. if his/her work or behaviour brings into question his/her reputation or the Agency's reputation, or his/her independence and autonomy or independence and autonomy of the Agency,
4. if he/she is unable to properly carry out his/her duty for more than six months in the row,
5. if he/she has become permanently unable to perform his/her duty as a result of illness,
6. if he/she has been convicted of a criminal offence;
7. the occurrence of circumstances referred to in Article 8, paragraph 7 of this Act.

(2) The provisions of Article 9, paragraphs 3 and 4 of this Act shall apply *mutatis mutandis* to the Director of the Agency after his/her dismissal from duty.

(3) The decision of the Agency's Council referred to in paragraph 1 of this Article must be reasoned and it is published on the Agency's website."

Article 11

In Article 12, paragraph 1 is amended to read:

"(1) The following regulatory and other tasks shall be within the competence of the Agency:

1. the adoption of implementing legislation for this Act, which are under the competence of the Agency pursuant to the provisions of this Act,
2. the supervision and regulation of prices, price lists of services and general terms and conditions of operators in the market of electronic communications networks and/or services,
3. the adoption of decisions concerning the identification of the relevant markets, the carrying out of market analyses and imposition and withdrawal of regulatory obligations on operators with significant market power,
4. the adoption of decisions concerning the identification of universal service operators and the definition of their rights and obligations,
5. the resolution of disputes between operators of electronic communications networks and/or services and between operators of electronic communications networks and operators of special tariff services,
6. the imposition of obligations on infrastructure operators and resolution of disputes concerning the right of way and sharing of electronic communications infrastructure and other associated facilities,
7. the supervision over the implementation of obligations from general authorisations and the adoption of decisions prohibiting the provision of electronic communications networks and services,
8. the adoption of decisions on granting, amendments, extension, transfer and revocation of individual licenses for use of the radio frequency spectrum granted on the basis of public call, public tender and public auction,
9. the adoption of the Addressing Plan, the Numbering Plan and radio frequency assignment plans and the drawing up of the proposal for the Radio Frequency Allocation Table,
10. the adoption of decisions concerning the must-carry rules for radio and television channels,
11. dispute resolution between end-users and operators of public communication services,
12. efficient management of the radio frequency spectrum and the addressing and numbering space in electronic communications,
13. the supervision over compliance of business operations of operators electronic communications networks and/or services with the provisions of this Act concerning security and integrity of electronic communications networks and services and personal data protection,
14. the inspection over the implementation of this Act and regulations adopted pursuant to this Act,
15. radio frequency spectrum control and measurement, testing and determination of causes of interference in the radio frequency spectrum,
16. the performing of technical inspection and radio measurements and the calculation and measuring of the electromagnetic fields,
17. the conclusion of concession agreements with electronic media broadcasters pursuant to a specific law regulating the field of electronic media;
18. the issuing of certificates, approvals, special authorisations and other acts in accordance with the provisions of this Act and regulations adopted pursuant to this Act,
19. the keeping and regular updating of the database of electronic communications infrastructure and associated facilities, radio frequency spectrum database, the

- numbering and addressing space and other databases, registers, records and other data collected by the Agency pursuant to the provisions of this Act and regulations adopted on the basis of this Act,
20. the regular publishing of data, information and documents in the field of electronic communications, in particular market development indicators, pursuant to the provisions of this Act and regulations adopted on the basis of this Act,
 21. participation in the drafting of proposals for strategies, studies, guidelines, programmes and implementation plans referred to in Article 4, paragraphs 1 and 2 of this Act,
 22. the provision of expert opinions and explanations concerning the implementation of this Act and regulations adopted pursuant to this Act,
 23. the organisation of public meetings and expert gatherings and the conduct of market analyses and opinion polls on certain issues in the electronic communications sector,
 24. international cooperation in the electronic communications sector and participation in the work of administrative and working bodies of competent European and international organisations and institutions in the electronic communications sector,
 25. the conclusion of bilateral and multilateral implementing agreements in the electronic communications sector, on the basis of delegated authority,
 26. cooperation with the competent national regulatory authorities of member States of the European Union, with BEREC, associations of competent regulatory authorities and other countries' national authorities in electronic communications,
 27. the carrying out of other activities laid down in this Act and the Agency's Statute."

In paragraph 3, number: "19" shall be replaced by number: "20".

Article 12

In Article 13, paragraph 1, a new item 4 is added after item 3 and reads:

"4. information on dispute resolution between end-users and operators of public communications services,".

Former items 4 to 6 shall become items 5 to 7.

In paragraph 2, the words: "by the end of April" are replaced by the words: "by the end of June".

Article 13

Article 14 is amended to read:

"(1) The Agency shall keep and regularly update databases with all registers and records kept for the purpose of performing activities within its competence, comprising in particular:

- a list of operators which have been issued a certificate in accordance with Article 32 of this Act,
- a list of operators which have been prohibited from performing their activity in accordance with Article 33 of this Act,

- a list of infrastructure operators which have been issued the right of way certificate in accordance with Article 28 of this Act,
- special conditions in the procedure for the granting of building site permits referred to in Article 25 of this Act,
- issued special authorisations referred to in Article 94a of this Act,
- assigned and available addresses and numbers in public communications networks,
- assigned and available radio frequencies and radio frequency channels,
- granted general licenses and granted and transferred individual licenses for the use of the radio frequency spectrum referred to in Articles 87, 88, 88a, 89, 90, 91 and 92 of this Act,
- identified relevant markets and operators with significant market power with the imposed regulatory obligations on these relevant markets,
- approved reference offers that must be prepared and published by operators in accordance with the provisions of this Act,
- data prescribed by a specific law regulating the postal services sector.

(2) Databases referred to in paragraph 1 of this Article must be publicly available, free of charge, in the electronic form on the Agency's website and must be regularly maintained and updated by the Agency. They must offer the possibility of data browsing according to selected parameters.

(3) The radio frequency spectrum database shall be kept and published in accordance with the provisions of Article 83 of this Act.

(4) The Agency shall regularly publish on its website, free of charge, in particular the following acts and information:

- decisions and other administrative acts of the Agency,
- public tenders and invitations to public consultations,
- expert opinions and explanations about the application of this Act and regulations adopted pursuant to this Act,
- statistical and other indicators of the electronic communications and postal services market development,
- the Agency's Statute and implementing legislation laid down in Article 19, paragraph 1 of this Act,
- the Agency's annual work programme,
- the Agency's annual financial plan and the realisation of this plan, as well as the Agency's annual financial statement,
- the Agency's annual activity report,
- other data and information about the functioning and business operations of the Agency.

(5) Regulations referred to in Article 19, paragraph 1 of this Act, acts referred to in Article 19, paragraph 2 of this Act, the Agency's annual activity report and the Agency's decisions having significant impact on the relevant market shall also be published in the Official Gazette.

(6) Statistical and other indicators of the electronic communications and postal services market development referred to in paragraph 4 of this Article must be updated and published on the Agency's website at least once in every three months.

(7) For the purpose of regular publication of legal acts and information referred to in paragraphs 1 and 4 of this Article, and other information important for the work of the Agency, the Agency may publish an official journal in printed and electronic form.

(8) Final judgments and decisions in administrative disputes initiated pursuant to the provisions of this Act shall be published in the Official Gazette and on the Agency's website, and may also be published in the Agency's official journal or in any other appropriate manner.

(9) By way of derogation from the provisions of this Article, acts and information regarded as business secret within the meaning of Article 15 of this Act or special data confidentiality regulations shall not be made publicly available."

Article 14

Article 15 is amended to read:

"(1) As a part of the tasks referred to in Article 12 of this Act, the Agency shall be authorised to request, in writing, from operators of electronic communications networks and/or services and persons laid down in a specific law regulating the postal services sector, the following:

- the delivery of all necessary data and information, including financial data and data regarded as business secret, as well as insight into the necessary data and documentation,
- immediate inspection of business premises, associated infrastructure, equipment and other technical means for the provision of electronic communications networks and services and postal services and of business books, archives, databases and other documents,
- the carrying out of other activities deemed by the Agency to be necessary for the establishment of all the important facts in the decision-making process.

(2) The Agency's request referred to in paragraph 1 of this Article must be proportionate to the activities carried out by the Agency and must contain a legal basis, the subject and purpose of the request, the extent of details in every request for data and the appropriate time limit for the implementation of the request, which shall not be less than eight days.

(3) Operators of electronic communications networks and/or services and persons designated by a specific law regulating the postal services sector shall be obliged to comply with the Agency's request referred to in paragraph 1 of this Article.

(4) Data referred to in paragraph 1 of this Article shall be delivered by the Agency to the Ministry or another competent state administration body upon its written request. The request must be reasoned, in accordance with paragraph 2 of this Article, taking into account specific data confidentiality regulations.

(5) Data collected by the Agency pursuant to paragraph 1 of this Article and other data collected pursuant to Article 12, paragraph 1 of this Act, may be submitted by the Agency to the Commission, to BEREC and to competent national regulatory authorities of other Member

States of the European Union further to their request if necessary for the carrying out of activities referred to in the Treaty on the Functioning of the European Union or for the fulfilment of BEREC's obligations or obligations of a national regulatory authority, in accordance with the European Union *acquis communautaire*. The request for the delivery of data referred to in paragraph 1 of this Article must be reasoned pursuant to paragraph 2 of this Article, taking into account specific data confidentiality regulations.

(6) When submitting data referred to in paragraph 5 of this Article, the Agency shall notify the operator thereof, or the person, who delivered the data, referred to in paragraph 3 of this Article. The Commission or BEREC may place the delivered data at the disposal of competent national regulatory authorities of other Member States of the European Union, unless the Agency strongly opposes.

(7) The Chairman, Deputy Chairman and members of the Agency's Council, the Director of the Agency and employees of the Agency's administrative service, as well as other legal and natural persons, entrusted by the Agency with the performance of certain tasks shall be obliged to keep a business secret, regardless of the manner in which they have learnt about the business secret, during and after they have finished carrying out the tasks or during their employment and after the termination thereof for as long as the data is regarded as a business secret, or until they are relieved from the obligation to keep the data secret by the owner of the data.

(8) The business secret referred to in paragraph 7 of this Article, shall in particular include the following:

- any information that is designated as business secret, in accordance with a specific law or another regulation,
- any information that is designated as a business secret, in accordance with a bylaw or other act of the owner of the information,
- any information specially designated by the owner as a business secret, accompanied by a valid explanation accepted by the Agency,
- any information designated as a business secret, in accordance with the Agency's bylaw.

(9) If data or documentation referred to in paragraph 1 of this Article contain a business secret, the operator or the person referred to in paragraph 3 of this Article must indicate to the Agency, together with a valid explanation, which information is regarded as a business secret.

(10) In the case referred to in paragraph 9 of this Article, the operator or the person referred to in paragraph 3 of this Article must deliver to the Agency a copy of documentation not containing the business secret. In cases where it is only indicated which data are regarded as a business secret and a copy of a letter and/or documentation not containing the business secret is not delivered, the Agency shall invite the operator or the person referred to in paragraph 3 of this Article to deliver the letter and/or documentation not containing the business secret. If the operator or the person referred to in paragraph 3 of this Article does not comply with the renewed request, the Agency shall treat this letter and/or documentation as if it did not contain a business secret.

(11) By way of derogation from paragraphs 7 and 8 of this Article, information or documentation which has been made publicly available in any manner or which is published

on the basis of specific regulations or decisions of the owner of data shall not be regarded as business secret, including the case referred to in paragraph 10 of this Article where the owner of data failed to comply with the Agency's repeated request."

Article 15

In Article 16, paragraph 2, items 1 and 2 are amended to read:

1. from the fee for the management of the addressing and numbering space,
2. from the fee for the management of the radio frequency spectrum,".

In paragraph 4, the words "for the following calendar year" are added after the words "Agency's plan".

Paragraph 6 is amended to read:

"(6) The Agency shall transfer the surplus of collected funds compared to the annual financial plan of the Agency to the next calendar year whereby it may be decided that these funds shall be used for the development of electronic communications and postal services in accordance with the strategies and implementation plans of the Government of the Republic of Croatia adopted pursuant to this Act and a specific law regulating the postal services sector, and in compliance with the rules on state aid."

Article 16

In Article 17, paragraph 2, item 4 is amended to read:

"4. give guidelines and instructions to the Director and the Agency's administrative service and supervise the implementation of these guidelines and instructions,".

Paragraph 5 is amended to read:

"(5) A party in the procedure before the Agency must be given the opportunity, before the adoption of the decision, to make a statement about the facts relevant for the adoption of the decision, and to deliver all the necessary documentation and propose evidence which it considers important for the adoption of the decision within a time limit of no less than eight days. By way of derogation, when carrying out the inspection, an electronic communications inspector may, if the breach of provisions of this Act or regulations adopted pursuant to this Act is established, adopt a decision without hearing the party."

Article 17

Article 18 is amended to read:

"(1) The Agency's Council shall adopt decisions by a majority vote of all members of the Agency's Council.

(2) Decisions and other administrative acts of the Agency may not be appealed but an administrative dispute may be initiated before the High Administrative Court of the Republic of Croatia.

(3) Decisions and other administrative acts of the Agency shall become enforceable upon delivery to the party. When a decision or another administrative act of the Agency specifies that an action which is the subject of enforcement may be carried out within the specified time limit, a decision or another administrative act of the Agency shall become enforceable after the expiry of such a time limit. The time limit for the performance of an action may not be less than fifteen days.

(4) In case of non-compliance with an enforceable decision or another administrative act of the Agency referred to in paragraph 3 of this Article, an electronic communications inspector may issue or propose a motion to initiate misdemeanour proceedings pursuant to the provisions of Article 112 of this Act."

Article 18

In Article 19, paragraph 4 is amended to read:

"(4) Regulations referred to in paragraph 1 of this Article and the Agency's acts referred to in paragraph 2 of this Article shall be published pursuant to the provisions of Article 14 of this Act, and other bylaws of the Agency referred to in paragraph 3 of this Article shall be published in the manner laid down in the Agency's Statute."

Article 19

In Article 20, paragraph 1 is amended to read:

"(1) In case of dispute between two or more operators of electronic communications networks and/or services concerning the obligations arising under this Act, or a dispute between these operators and other legal persons using the services of access to and/or interconnection on the basis of this Act, the Agency must, upon request of any of the parties in the dispute, adopt a decision on the resolution of the dispute as soon as possible, and at the latest within four months from the date of initiating the dispute resolution proceedings. The time limit for the resolution of a dispute may be extended only in exceptional circumstances."

Article 20

Article 21 is amended to read:

"(1) In case of a cross-border dispute between parties from other Member States of the European Union concerning the obligations arising from this Act or the relevant European Union directives in the field of electronic communications, where dispute resolution is under the competence of national regulatory authorities from two or more Member States of the European Union, each of the parties in the dispute may initiate proceedings before the relevant national regulatory authority.

(2) When resolving disputes referred to in paragraph 1 of this Article, the Agency shall conduct proceedings pursuant to Article 20 of this Act coordinating its activities aimed at the resolution of the dispute with other competent national regulatory authorities.

(3) In case of a dispute referred to in paragraph 1 of this Article, the Agency may consult with BEREC and request BEREC's opinion on the appropriate measures to be undertaken for the purpose of dispute resolution, in accordance with the relevant European Union directives in the electronic communications sector.

(4) In case of a request for opinion referred to in paragraph 3 of this Article, the Agency and national regulatory authorities of other Member States of the European Union, which are competent for the resolution of disputes referred to in paragraph 1 of this Article, shall postpone the adoption of the decision on dispute resolution until BEREC gives its opinion referred to in paragraph 3 of this Article, except where necessary to adopt a decision on urgent resolution of the dispute referred to in paragraph 1 of this Article.

(5) Obligations, imposed by the Agency's decision to parties in the dispute resolution procedure referred to in paragraph 1 of this Article, must take into account the provisions of the relevant European Union directives in the electronic communications sector while bearing in mind, to the greatest possible extent, the BEREC's opinion referred to in paragraph 3 of this Article.

(6) The procedure for resolution of a cross-border dispute referred to in this Article shall not exclude the right of any party in the dispute to initiate proceedings before the competent court."

Article 21

Article 22 is amended to read:

"(1) Before adopting a measure with significant impact on the relevant market, which is adopted pursuant to the provisions of this Act, the Agency shall publish a proposal for the measure together with the accompanying explanation for the purpose of public consultation, in order to enable all interested parties to give their opinions, comments and proposals on the proposed measure.

(2) In the procedure for the adoption of the decision concerning the measure referred to in paragraph 1 of this Article, the Agency shall pay special attention to opinions, comments and proposals received during public consultation referred to in paragraph 1 of this Article while respecting the principles of objectivity, transparency, proportionality and non-discrimination and regulatory principles referred to in Article 5 of this Act.

(3) After public consultation referred to in paragraph 1 of this Article is closed, the Agency shall publish all the received opinions, comments and proposals and it may set an additional time limit for the comments of interested parties on the received opinions, comments and proposals, before adopting the decision on the measure referred to in paragraph 1 of this Article.

(4) Public consultation referred to in paragraph 1 of this Article may not be shorter than 15 days or longer than 60 days. The subject matter, procedure and the duration of public consultation, as well as the outcome of public consultation referred to in paragraph 3 of this Article shall be published pursuant to the provisions of Article 14 of this Act.

(5) Public consultation referred to in paragraph 1 of this Article shall be obligatory in the following procedures:

- procedures for the adoption of implementing legislation for this Act, which is under the competence of the Agency, in accordance with the provisions of this Act and a specific law regulating the postal services sector,
- procedures for the adoption of regulations referred to in Article 70, paragraph 5, item 2 and Article 84, paragraph 1, item 2 of this Act,
- procedures for the adoption of the annual financial plan of the Agency and the Agency's annual activity plan,
- procedures for the adoption of the Addressing and Numbering Plans, the Radio Frequency Allocation Table and plans for the assignment of radio frequencies,
- procedures referred to in Article 23, Article 36, paragraph 1, Article 52, paragraph 1, Article 56, paragraphs 1 and 2, Article 85, Article 85a and Article 91a of this Act,
- procedures for the adoption of amendments to acts referred to in this paragraph.

(6) The Agency must ensure, on its website or in any other appropriate manner, the establishment of a single information point providing immediate public insight and participation in all current public consultations, and public access to the outcomes of public consultations, taking into account the confidentiality of data pursuant to the provisions of Article 15 of this Act."

Article 22

Article 23 is amended to read:

"(1) When imposing a certain regulatory obligation on an operator pursuant to the provisions of this Act, the Agency shall cooperate with and coordinate its actions with competent national regulatory authorities of other Member States of the European Union, with BEREC and the Commission in order to ensure consistent application of the relevant *acquis communautaire* concerning the internal market.

(2) The Agency shall, when planning to adopt the following decisions:

1. the decision referred to in Article 53, paragraph 2 of this Act and/or decision referred to in Article 56 of this Act concerning the procedure referred to in Article 52, paragraph 1, subparagraph 2 and procedures referred to in Article 54 of this Act, or
2. the decision referred to in Article 56 of this Act concerning the withdrawal, imposition, maintenance or amendment of regulatory obligations referred to in Articles 58 to 64 of this Act,

which may influence trade between Member States of the European Union, make available a reasoned draft of these decisions, after the public consultation procedure referred to in Article 22 of this Act, to the Commission, BEREC and competent national regulatory authorities of other Member States of the European Union, and immediately notify them thereof.

(3) The Commission, BEREC and competent national regulatory authorities of other Member States of the European Union may make comments to the Agency on draft decisions referred to in paragraph 2, items 1 and 2 of this Article within a time limit of one month, which may not be extended.

(4) When adopting the decision referred to in paragraph 2, item 1 of this Article, the Agency shall take utmost account of the comments referred to in paragraph 3 of this Article and accordingly adopt its final decision to be delivered to the Commission, except when applying the procedure referred to in paragraphs 5 to 8 of this Article. The Agency shall deliver to the Commission and to BEREC all the decisions referred to in paragraph 2, item 1 of this Article.

(5) If, according to the Commission's notification which was delivered to the Agency, the draft decision referred to in paragraph 2, item 1 of this Article would create a barrier to the single market, or if there are serious doubts as to the compatibility of the draft decision with the relevant Community law, and in particular with the regulatory principles and objectives referred to in Article 5 of this Act, the adoption of the decision must be postponed for two months without the possibility of extension, and the Commission shall notify the competent national regulatory authorities of other Member States of the European Union thereof.

(6) In the period referred to in paragraph 5 of this Article the Commission may:

1. adopt a decision requesting from the Agency to withdraw the draft decision referred to in paragraph 2, item 1 of this Article, or
2. adopt a decision to lift its reservations referred to in its notification referred to in paragraph 5 of this Article.

(7) Before adopting the decision referred to in paragraph 6 of this Article, the Commission shall take the utmost account of BEREC's opinion. The Commission's decision referred to in paragraph 6, item 1 of this Article must be reasoned and must contain specific proposals for amending the draft decision referred to in paragraph 2, item 1 of this Article.

(8) If the Commission adopts the decision referred to in paragraph 6, item 1 of this Article, the Agency shall amend or withdraw the draft decision referred to in paragraph 2, item 1 of this Article within six months from the date of adoption of the decision by the Commission. Agency shall submit to the public consultation the amended draft decision referred to in paragraph 2, item 1 of this Article in accordance with Article 22 of this Act and notify the Commission thereof, in accordance with paragraph 2 of this Article.

(9) Where, according to the Commission's notification delivered to the Agency, the draft decision referred to in paragraph 2, item 2 of this Article would create a barrier to the single market, or if there are serious doubts as to the compatibility of the draft decision with the relevant Community law, and in particular with the regulatory principles and objectives referred to in Article 5 of this Act, the adoption of the decision must be postponed for three months. In the absence of such Commission's notification, the Agency may adopt the decision, taking utmost account of the comments referred to in paragraph 3 of this Article.

(10) In the period referred to in paragraph 9 of this Article, the Agency, the Commission and BEREC shall closely cooperate to impose the most appropriate and most effective regulatory obligation in accordance with the regulatory principles and objectives

referred to in Article 5 of this Act, whereby they shall make sure to take into account the positions of market participants and to ensure the harmonised application of the Community Law.

(11) Within six weeks from the beginning of the period referred to in paragraph 9 of this Article, BEREC shall issue a reasoned opinion on the Commission's notification referred to in paragraph 9 of this Article where it must specify whether the draft decision referred to in paragraph 2, item 2 of this Article needs to be amended or withdrawn, and, where necessary, it may propose specific amendments to the decision referred to in paragraph 2, item 2 of this Article. The Agency shall publish BEREC's opinion in accordance with the provisions of Article 14 of this Act.

(12) If, in the opinion referred to in paragraph 11 of this Article, BEREC agreed with the serious doubts of the Commission referred to in paragraph 9 of this Article, the Agency shall closely cooperate with BEREC to impose the most appropriate and most effective regulatory obligations. Before the expiry of the period referred to in paragraph 9 of this Article, the Agency may:

1. amend or withdraw the draft decision referred to in paragraph 2, item 2 of this Article taking utmost account of the Commission's notification referred to in paragraph 9 of this Article and BEREC's opinion referred to in paragraph 11 of this Article,
2. maintain the draft decision referred to in paragraph 2, item 2 of this Article.

(13) If BEREC, in its opinion referred to in paragraph 11 of this Article disagreed with the serious doubts from the Commission's notification referred to in paragraph 9 of this Article, or does not issue the opinion referred to in paragraph 11 of this Article, or, if the Agency, pursuant to paragraph 12 of this Article amends or maintains its draft decision referred to in paragraph 2, item 2 of this Article, the Commission may, within one month following the end of the period referred to in paragraph 9 of this Article, while taking utmost account of the BEREC's opinion, if any:

1. issue a recommendation requiring the Agency to amend or withdraw the draft decision referred to in paragraph 2, item 2 of this Article, including specific proposals for amendments to this decision, as well as the elaborated reasons for the adoption of this recommendation, in particular where BEREC does not share the serious doubts from the Commission's notification referred to in paragraph 9 of this Article,
2. adopt a decision to lift its reservations indicated in its notification referred to in paragraph 9 of this Article.

(14) The Agency shall, within one month from the date of the recommendation or decision adopted by the Commission referred to in paragraph 13 of this Article, submit to the Commission and to BEREC the decision referred to in paragraph 2, item 2 of this Article.

(15) The time limit referred to in paragraph 14 of this Article may be extended in order to carry out an additional public consultation on the draft decision referred to in paragraph 2 item 2 of this Article in accordance with Article 22 of this Act.

(16) If the Agency decides not to act in accordance with the Commission's recommendation referred to in paragraph 13 of this Article, it may specify the reasons thereof.

(17) The Agency may, at any time, withdraw the draft decision referred to in paragraph 2, item 2 of this Article and it must notify the Commission, BEREC, the competent national regulatory authorities of other Member States of the European Union and parties in the procedure thereof.

(18) In exceptional circumstances, the Agency may, where it considers that certain issues need to be provisionally regulated in order to safeguard competition and protect the interests of users, decide not to carry out the procedures referred to in paragraphs 2 to 8 of this Article or procedures referred to in paragraphs 9 to 17 of this Article, and immediately adopt a provisional decision, while respecting the principle of proportionality.

(19) The Agency shall, without delay, submit a reasoned provisional decision referred to in paragraph 18 of this Article to the Commission, BEREC and competent national regulatory authorities in other Member States of the European Union. The provisional decision may be revoked by an Agency's decision, adopted after the carrying out of procedures referred to in paragraphs 2 to 8 of this Article or procedures referred to in paragraphs 9 to 17 of this Article, to render the issues in question permanent."

Article 23

The title of Chapter IV is amended to read: "IV. ELECTRONIC COMMUNICATIONS INFRASTRUCTURE AND OTHER ASSOCIATED FACILITIES".

Article 24

The title above Article 24 is amended to read: "Essential requirements for electronic communications infrastructure and other associated facilities".

Article 24 is amended to read:

"(1) Electronic communications network, electronic communications infrastructure and other associated facilities must be planned, designed, manufactured, constructed, maintained and used in accordance with standards and technical specifications contained in the list of binding standards and/or technical specifications published in the Official Journal of the European Union in accordance with the relevant European Union Directive.

(2) Where there are no relevant binding standards and/or technical specifications published in accordance with paragraph 1 of this Article, standards and technical specifications of the European Telecommunications Standards Institute (ETSI), the European Committee for Standardization (CEN), and the European Committee for Electrotechnical Standardization (CENELEC) and standards, decisions and recommendations of the International Telecommunication Union (ITU), International Organisation for Standardization (ISO), International Electrotechnical Commission (IEC) and the European Conference of Postal and Telecommunications Administrations (CEPT), and other relevant international standards/standardization organizations.

(3) Where there are no adequate standards, technical specifications and other international regulations referred to in paragraph 2 of this Article, the original Croatian standards shall apply *mutatis mutandis*.

(4) Electronic communications network, electronic communications infrastructure and other associated facilities must be planned, designed, manufactured, constructed and installed to enable access to and availability of public electronic communications services to disabled persons.

(5) When constructing an office or residential building, the investor must build ducts for access electronic communications network adequate for the building's purpose up to the end of the building plot, and install an electronic communications infrastructure and associated facilities for the needs of that building in accordance with the main and final projects, which must be prepared in accordance with ordinances referred to in paragraph 8 of this Article. The constructed electronic communications infrastructure, electronic communications network and other associated facilities must allow to all building owners free carrier selection, and to all operators equal and non-discriminatory access to the building.

(6) Owners of a constructed office or residential building must allow access to all operators, under equal and non-discriminatory conditions, for the purpose of installation, maintenance and development of electronic communications networks and other associated facilities pursuant to ordinances referred to in paragraph 8 of this Article.

(7) If the construction of a residential, office or another building or facility causes interference in the reception of radio and television programmes of electronic media broadcasters, the investor of that building or facility must, within 60 days from the detection of the interference ensure, at his own expense, the reception of radio and television programmes of equivalent quality as before the interference.

(8) The Agency's Council shall adopt ordinances to prescribe in more detail the technical, usage and other conditions for certain types of electronic communications networks, electronic communications infrastructure and other associated facilities.

(9) The ordinances referred to in paragraph 8 of this Article, which lay down the conditions for physical planning and construction of electronic communications infrastructure, and which refer to essential requirements related to a building, shall be adopted by the Agency's Council with consent of the Minister competent for physical planning and construction."

Article 25

The title above Article 25 is amended to read: "Construction, use and maintenance of an electronic communications network, electronic communications infrastructure and other associated facilities".

Article 25 is amended to read:

"(1) The installation and use of electronic communications networks and the provision of electronic communications services must comply with the safety requirements for network use, network integrity and interoperability of electronic communications services. Electronic

communications networks intended for the provision of public electronic communications services, including electronic communications services with the use of the radio frequency spectrum must be, as far as technically feasible, constructed, installed and used in the manner that does not disrupt the quality of service or allow interception to other users.

(2) Local and regional self-government authorities are obliged to introduce electronic communications infrastructure and other associated facilities into their physical planning documents including, in particular, antennae masts, towers and ducts, in a manner that does not restrict the development of electronic communications network and electronic communications infrastructure while satisfying the requirements for the protection of human health, spatial and environmental protection.

(3) The adoption of physical planning documents referred to in paragraph 2 of this Article shall be subject to Agency's prior opinion confirming that the physical planning document regulates the construction of electronic communications infrastructure and other associated facilities in accordance with paragraph 2 of this Article and ordinances referred to in Article 24, paragraph 9 of this Act. The Agency shall adopt a prior opinion in accordance with criteria for the development of electronic communications infrastructure and other associated facilities, which shall be laid down in a regulation adopted by the Government of the Republic of Croatia upon proposal of the Minister and with the previously obtained opinion of the Agency's Council.

(4) If the Republic of Croatia or a local or regional self-government authority has ownership or keeps control over legal persons managing the electronic communications network and/or providing electronic communication services, bodies competent for issuing building licenses and licenses for the use of electronic communications networks, electronic communications infrastructure and associated facilities must be structurally separate from bodies having ownership or supervisory authority over those legal persons, while respecting the principle of non-discrimination.

(5) An infrastructure operator must, within 30 days from the beginning of use, notify the Agency in writing of the beginning of use of the newly-constructed electronic communications network, electronic communications infrastructure and other associated facilities.

(6) Operators must ensure access to their electronic communications network, electronic communications infrastructure and other associated facilities at a price which includes only real maintenance costs, and give priority in the provision of electronic communications services to central state administration bodies competent for defence and national security, internal affairs and protection and rescue, to competent security services, legal persons competent for air traffic, maritime traffic and inland waterways safety and to emergency services.

(7) Operators and owners or users of radio stations must, in case of war or immediate danger to the country's independence and integrity, and in case of serious accidents or natural disasters, put its electronic communications network, electronic communications infrastructure and associated facilities or its radio station, at the disposal of competent state administration bodies, legal persons and emergency services referred to in paragraph 6 of this Article and permit free-of-charge conveyance of messages and information in case of danger

to life and health of people, or very valuable property or environment, in accordance with specific regulations.

(8) In cases referred to in paragraph 7 of this Article, operators of a publicly available telephone services must take all the necessary measures to ensure uninterrupted access to emergency service numbers.

(9) For spatial interventions within the zone of electronic communications infrastructure and other associated facilities and the protection zone and the radio corridor of certain radio stations, the Agency shall, in accordance with the specific laws regulating physical planning and construction, and procedures and conditions for construction aimed at stimulating investments, establish and issue the following:

- requests and opinions in the process of drafting and adoption of physical planning documents,
- special requirements in the procedure for issuing location permits, decisions on construction requirements and decisions on construction, related to the compliance with the provisions of this Act and regulations adopted pursuant to this Act."

Article 26

The title above Article 26 is amended to read: "Carrying out of works in the zone of electronic communications infrastructure and other associated facilities".

Article 26 is amended to read:

"(1) No works may be carried out or new buildings constructed in the zone of electronic communications infrastructure and associated facilities that might impair or disturb the functioning of that infrastructure or facilities.

(2) In the protection zone and the radio corridor of certain radio stations there may not be any works carried out, buildings constructed, new electronic communications equipment or associated facilities or plants installed that might diminish the quality of work, interfere with or interrupt the work of radio stations or create interferences in the radio frequency spectrum.

(3) Crops that might damage electronic communications lines or diminish their quality, disturb or interrupt the work of radio stations may not be built under surface and above underground electronic communications lines or in their immediate vicinity, or in the protection zone and the radio corridor of certain radio stations.

(4) Where the protection or relocation of electronic communications infrastructure and associated facilities is necessary for the purpose of carrying out works or constructing a new building, the investor of the works or the building must, at its own expense, ensure the protection or relocation of electronic communications infrastructure and associated facilities constructed pursuant to this Act and specific regulations. Otherwise, the costs of its protection or relocation shall be borne by the infrastructure operator.

(5) The procedure and conditions for the defining of the zone of electronic communications infrastructure and associated facilities referred to in paragraph 1 of this Article and the protection zone and the radio corridor referred to in paragraph 2 of this

Article, as well as detailed obligations of the investor of works or the building referred to in paragraph 4 of this Article, shall be prescribed by the ordinance adopted by the Agency's Council, with the consent of the minister competent for physical planning and construction."

Article 27

Article 27 is amended to read:

"(1) Operators of public communications networks shall have infrastructure operator's rights in the entire territory of the Republic of Croatia, including the right to build, maintain, develop and use the electronic communications network and electronic communications infrastructure and associated facilities on public property, on property owned by the Republic of Croatia and local and regional self-government authorities and on property owned by other legal and natural persons, in accordance with this Act and specific regulations.

(2) Public property managers, the Republic of Croatia, local and regional self-government authorities and legal persons in the majority ownership of the Republic of Croatia or of local and regional self-government authorities must abide by the principle of non-discrimination when granting the right of use of property for the purpose of building electronic communications network and electronic communications infrastructure and when granting access to that network and infrastructure they manage.

(3) If consent from the manager of public property or owner of private property is necessary in accordance with a specific law regulating physical planning and construction to obtain building permits and other licenses for the construction of electronic communications infrastructure and associated facilities on public property or property owned by the Republic of Croatia or local and regional self-government authorities, a competent body of the public property manager or owner of private property shall grant its consent within 30 days from the submission of the request for granting the consent. The consent shall be deemed to have been given if not granted within 30 days from the submission of the request for the granting thereof.

(4) The competent body of the manager of public property or owner of public property may deny the request for the granting of consent referred to in paragraph 3 of this Article in the following cases:

- if it is established that construction is not technically feasible on public or private property which is the subject of the request for granting the consent,
- where construction would be contrary to the requirements concerning the protection of human health, environmental or nature protection, protection of space or cultural heritage, in accordance with specific regulations.

(5) Within the meaning of the provisions of this Article and Articles 28 and 29 of this Act, electronic communications infrastructure shall include ducts, electronic communications lines placed outside of ducts and masts of surface communications network."

Article 28

Article 28 is amended to read:

"(1) The infrastructure operator shall be deemed to have the right of way if it has constructed electronic communications infrastructure and other associated facilities on public property or property referred to in Article 27, paragraph 1 of this Act provided that it complies with any of the following conditions:

- it has acquired a use permit issued in its name or in the name of its universal or individual legal predecessors,
- it uses the electronic communications infrastructure and other associated facilities without a court dispute with the manager of public property or owner of property on which the infrastructure has been constructed, for at least three years from the beginning of the use thereof.

(2) In the case referred to in paragraph 1 of this Article, the Agency shall issue the right-of-way certificate to the infrastructure operator, in accordance with the ordinance referred to in Article 29, paragraph 1 of this Act.

(3) Only one right-of-way certificate may be issued for an electronic communications infrastructure on public or private property referred to in Article 27, paragraph 1 of this Act.

(4) The infrastructure operator shall pay a fee for the right of way to the manager of public property or to the owner of property, and the manager of public property or the owner of property must ensure the exercise of the right of way to the infrastructure operator.

(5) The manager of public property or owner of private property shall not be entitled to require compensation from the beneficiary operator using the electronic communications infrastructure and associated facilities of the infrastructure operator on the basis of a concluded contract referred to in Article 30, paragraph 2 of this Act, in the same manner and under the same conditions as the infrastructure operator.

(6) The manager of public property or the owner of property may request from the Agency to identify the infrastructure operator for electronic communications infrastructure built on public property or property referred to in Article 27, paragraph 1 of this Act and to determine the amount of the fee for the right of way."

Article 29

Article 29 is amended to read:

"(1) A fee is paid for the right of way on public property and property referred to in Article 27, paragraph 1 of this Act on the basis of an issued right-of-way certificate referred to in Article 28 of this Act, and the calculation and the amount of the fee as well as the method of payment shall be laid down in the ordinance adopted by the Agency's Council whereby the amount of the fee must be proportionate between the rights of the owner of property and interests of the operator of electronic communications services and the public interest for the development of the electronic communications market.

(2) The fee referred to in paragraph 1 of this Article for public property and property owned by the Republic of Croatia and local and regional self-government authorities shall be paid on an annual basis per square metre of land used for electronic communications infrastructure referred to in Article 27, paragraph 5 of this Act and it shall be established

explicitly for each individual type of property or public property in the entire territory of the Republic of Croatia.

(3) The ordinance referred to in paragraph 1 of this Article shall lay down in more detail the issuing procedure and the content of the form of the right-of-way certificate referred to in Article 28 of this Act."

Article 30

The title above Article 30 is amended to read: "Sharing of electronic communications infrastructure and other associated facilities".

Article 30 is amended to read:

"(1) In achieving regulatory principles and objectives referred to in Article 5 of this Act, Agency shall encourage the sharing of electronic communications infrastructure and other associated facilities, in particular for the purpose of protection of human health, environmental protection, protection of space, avoiding excessive construction where economically inefficient or physically inappropriate, and for the protection and preservation of cultural heritage and national security.

(2) The infrastructure operator must allow to beneficiary operator, for a fee and on the basis of a concluded contract, access to and sharing of electronic communications infrastructure and other associated facilities, including communications installations in a building owned by the infrastructure operator, or up to the first collection or distribution point, provided that the relevant conditions for access and sharing have been fulfilled as laid down in the ordinance referred to in paragraph 9 of this Article. The beneficiary operator may not use the electronic communications infrastructure and other associated facilities without the concluded contract with the infrastructure operator.

(3) Where the beneficiary operator was unable to access electronic communications infrastructure and other associated facilities due to the requirements concerning the protection of human health, environmental and nature protection, protection of space, avoiding excessive construction where economically inefficient or physically inappropriate, protection and preservation of cultural heritage or national security, the Agency may adopt a decision binding the infrastructure operator to allow access to and sharing of its electronic communications infrastructure and other associated facilities to the beneficiary operator.

(4) Before adopting the decision referred to in paragraph 3 of this Article, the Agency must conduct public consultation pursuant to Article 22 of this Act, and it may also consult with competent bodies of local and regional self-government authorities. The decision referred to in paragraph 3 of this Article must be based on the principles of objectivity, transparency, non-discrimination and proportionality.

(5) The Agency may adopt a decision imposing the following obligations on the infrastructure operator referred to in paragraph 2 of this Article:

- to apply the principle of non-discrimination and to grant access to all beneficiary operators under equivalent conditions,

- to apply the principle of cost-orientation on the basis of costs of construction and maintenance of electronic communications infrastructure and other associated facilities with the adequate rate of return on investments,
- to draft and publish the reference offer for access and the obligation to negotiate access with beneficiary operators.

(6) The infrastructure operator referred to in paragraph 2 of this Article shall process requests of beneficiary operators concerning access and sharing of electronic communications infrastructure and other associated facilities in the order of receipt if the availability of free space in its infrastructure does not exceed the level laid down in the ordinance referred to in paragraph 9 of this Article.

(7) If the infrastructure operator refuses to conclude the contract referred to in paragraph 2 of this Article or prevents the beneficiary operator from accessing and sharing its electronic communications infrastructure and other associated facilities under the conditions referred to in paragraph 2 of this Article, the Agency shall, upon the beneficiary operator's request, and within 30 days from the date of submitting the request, establish the existence of conditions referred to in paragraph 2 of this Article and, in such case, adopt a decision replacing the contract in its entirety.

(8) If the infrastructure operator referred to in paragraph 2 of this Article does not reply to the beneficiary operator's request within 30 days from the date of submission, it shall be regarded that it refused to conclude the contract within the meaning of paragraph 7 of this Article.

(9) The procedure and conditions of access to and sharing of electronic communications infrastructure and other associated facilities, the level of availability of free space in that infrastructure and the main elements of the contract on access to and sharing of electronic communications infrastructure and other associated facilities shall be regulated in more detail by the ordinance adopted by the Agency's Council.

(10) In case of dispute between an infrastructure operator and a beneficiary operator concerning the concluded contract on access to and sharing of electronic communications infrastructure and associated facilities, or concerning the payment of the fee for such access and sharing, the Agency shall carry out dispute resolution proceedings in accordance with the provisions of Article 20 of this Act, taking into account the relevant conditions for access and sharing referred to in paragraph 2 of this Article."

Article 31

In Article 31, paragraph 1 is amended to read:

"(1) An operator shall be entitled to install, use and make available an electronic communications network and provide electronic communications services in the territory of the Republic of Croatia without obtaining a special authorisation, under the conditions laid down in this Act and regulations adopted pursuant to this Act."

Article 32

In Article 32, paragraph 11 is added to read:

"(11) An operator of public communications services from a Member State of the European Union providing publicly available electronic communications services at cross-border markets in several Member States of the European Union, including to legal persons in the Republic of Croatia, must notify the Agency pursuant to the provisions of this Article."

Article 33

The title above Article 33 is amended to read: "Compliance with conditions from the general authorisation and other special obligations".

Article 33 is amended to read:

"(1) The Agency shall carry out the supervision and the verification of compliance of the provision of electronic communications networks and services with the conditions from the general authorisation.

(2) The Agency shall be authorised to request from operators providing electronic communications networks and services on the basis of the general authorisation all data and documentation necessary for the verification of compliance of the provision of electronic communications networks and services with the conditions from the general authorisation.

(3) Where the Agency establishes that the operator does not comply with one or more conditions from the general authorisation, it shall immediately notify the operator thereof and set a time limit of a minimum of 30 days from the date of delivery of notification to the operator for the operator to notify the Agency of the reasons for non-compliance with the conditions and eliminate the established irregularities.

(4) The time limit referred to in paragraph 3 of this Article may be adequately extended upon the operator's request, in accordance with the Agency's decision, and it may be shorter than 30 days in case of repeated or similar non-compliance with conditions from the general authorisation.

(5) Where the operators does not remedy the irregularities within the time limits referred to in paragraphs 3 and 4 of this Article, the Agency shall adopt a decision on the non-compliance with conditions from the general authorisation and set an adequate time limit of a maximum of 30 days for the remedy of the established irregularities. This decision may also prohibit the provision of individual or associated electronic communications services until the remedy of irregularities if the continued provision of these services might result in a significant negative impact on competition depending on the compliance with the regulatory obligations imposed in accordance with the provisions of Articles 52 and 56 of this Act.

(6) If the operator does not remedy the established irregularities within the time limit referred to in paragraph 5 of this Article or continues with the non-compliance with the conditions from the general authorisation, the Agency shall adopt a decision banning to the operator the provision of electronic communications networks and services.

(7) When the decision referred to in paragraph 6 of this Article becomes final, the operator shall be obliged to discontinue the provision of electronic communications networks and services, without the entitlement to compensation.

(8) Notwithstanding the provisions of paragraphs 3, 5 and 6 of this Article, the Agency may, on the basis of evidence on the breach of conditions from the general authorisation, or breach of obligations referred to in Article 35 of this Act, which represent immediate and serious threat to public safety, public order or public health, or will cause serious economic and operational difficulties to other operators or users of electronic communications networks or services, or other users of the radio frequency spectrum, adopt an interim decision ordering the operator to remedy the established irregularities or ban the provision of certain or associated electronic communications services.

(9) After the adoption of the interim decision referred to in paragraph 8 of this Article, the Agency shall offer to the party in proceedings to, in accordance with Article 17, paragraph 5 of this Act, comment on the facts important for the adoption of the decision and to deliver all the necessary documents and propose evidence it deems important for the adoption of the decision within the time limit of a minimum of eight days.

(10) The interim decision referred to in paragraph 8 of this Article may be valid for the maximum of three months from the date of its delivery to a party in the proceedings and, when the enforcement of the decision is not complete, it may be extended for the maximum of another three months. The interim decision shall be revoked by a final decision regulating the issues in question."

Article 34

Article 34 is amended to read:

"(1) The procedure and conditions for the provision of electronic communications networks and services and quality standards for electronic communications networks and services shall be prescribed in more detail by the ordinance adopted by the Agency's Council.

(2) The ordinance referred to in paragraph 1 of this Article may in particular impose on operators of publicly available electronic communications services the obligation to regularly publish appropriate, up-to-date and comparable data on quality of service indicators and measures undertaken to ensure equal access to publicly available electronic communication services to disabled persons, and to submit them to the Agency upon its request.

(3) The ordinance referred to in paragraph 1 of this Article may also lay down the minimum requirements for indicators of quality of service in order to prevent the deterioration in the quality of service and interruption or slowing-down of traffic in public electronic communications networks.

(4) A reasoned proposal of minimum requirements for quality indicators referred to in paragraph 3 of this Article shall be delivered by the Agency to the Commission and BEREC before adoption. The Commission may offer comments or recommendations on the submitted proposal, in particular to prevent negative impact of the Agency's proposal on the common

market, and, when adopting the minimum requirements referred to in paragraph 3 of this Article, the Agency shall take utmost account of the Commission's comments and recommendations."

Article 35

Article 35 is amended to read:

"(1) Universal services shall be available at an affordable price to all end-users in the entire territory of the Republic of Croatia upon a reasonable request by the end-user, regardless of their geographical location. Universal services shall be provided based on objective, transparent, proportionate and non-discrimination principles, while distorting competition to the least possible extent.

(2) Universal services referred to in paragraph 1 of this Article shall comprise one or more of the following services:

1. access to the public communications network and publicly available telephone services at a fixed location enabling voice communication, facsimile communications and data communications at data transfer rates that are sufficient to permit functional Internet access, taking into account the prevailing technologies used by the majority of subscribers, as well as their technological feasibility,
2. access of end-users to at least one comprehensive directory of all subscribers of publicly available telephone services, in a form approved by the Agency, whether printed or electronic, which must be updated on a regular basis, pursuant to the provisions of Article 47 of this Act,
3. access of end-users, including users of public pay telephones, to a telephone directory enquiry service, in accordance with the provisions of Article 47 of this Act,
4. installation of public pay telephones or other places for public telephone service accessible at any time in accordance with reasonable needs of end-users in terms of the geographical coverage, the quality of service, the number of public pay telephones or other publicly available access points and their accessibility to disabled users,
5. special measures for disabled users including access to emergency services, directory enquiry services and directories, equivalent to that enjoyed by other end-users, and an adequate choice of operators available to the majority of end-users,
6. special tariff systems adjusted to the groups of end-users with special social needs which cover the services referred to in items 1 to 3 of this paragraph.

(3) The price of an individual universal service must be affordable and uniform in the entire territory where the operator is providing this universal service. The prices of universal services referred to in paragraph 2, item 6 of this Article must take into account the affordability to the group of end-users with special social needs.

(4) The Agency shall follow the development and level of retail prices of universal services referred to in paragraph 2 of this Article provided by the universal services operator or which are available at the market of these services if the universal services operator has not been designated in accordance with Article 36 of this Act, in particular in relation to consumer prices and income. Universal service operators providing universal services referred to in paragraph 2 of this Article must obtain a prior approval of the Agency for retail prices of

these services. The Agency shall decide on the request for the granting of the prior approval within 30 days from the date of receipt of the request.

(5) As part of the procedure referred to in Article 36 of this Act, the Agency may impose the following obligations on universal service operators:

- to ensure pre-paid systems for access to public telephone network and the use of publicly available telephone services,
- to make possible to users the phased payment of connection charges.

(6) Universal service operators shall publish in the appropriate and publicly available manner adequate and updated information and data on the conditions for the provision of universal services and deliver them to the Agency on a regular basis.

(7) The procedure and conditions for the provision of universal services and quality of service indicators, as well as the form, content and manner of publication of information and data referred to in paragraph 6 of this Article shall be prescribed in more detail by the ordinance adopted by the Agency's Council."

Article 36

Article 36 is amended to read:

"(1) The Agency shall, at least once in every two years, establish:

- whether universal services referred to in Article 35 of this Act are provided in the appropriate manner and with the appropriate quality of service,
- which operators are interested in providing one or several services among universal services referred to in Article 35, paragraph 2 of this Act and/or for covering different areas of the territory of the Republic of Croatia.

(2) When implementing the procedure referred to in paragraph 1 of this Article, the Agency shall, in an appropriate manner, enable all interested parties to participate in the procedure.

(3) If the Agency establishes that an individual service within the framework of universal services referred to in Article 35, paragraph 2 of this Act is provided in an appropriate manner, it does not have to designate an operator to provide this part of universal services or may adopt a decision on the withdrawal of the obligation to provide this part of universal services on the universal services operator on which this obligation was previously imposed. The Agency shall ensure that services referred to in Article 35, paragraph 2, item 1 of this Act are provided by at least one universal services operator.

(4) If the Agency establishes that an individual service within the framework of universal services referred to in Article 35, paragraph 2 of this Act is not provided in the appropriate manner, it shall do one of the following:

1. adopt a decision designating one or more operators to provide this part of universal services in which case the publicly available telephone service at a fixed location, which enables the originating and receiving of national and international calls, must be provided by at least one universal services operator,

2. adopt a decision to invite a public tender for the provision of universal services on the basis of which it shall select the most favourable operator for the provision of this part of universal services.

(5) If no operator bids at a public tender referred to in paragraph 4, item 2 of this Article, the Agency may adopt a decision referred to in paragraph 4, item 1 of this Article, whereby it must take special account of the existence of the significant market power of the operator on the relevant market.

(6) The decision on the designation of operators with significant market power referred to in paragraphs 4 and 5 of this Article, the Agency shall, in particular, establish the conditions for the provision of universal services and provide a more detailed description and quality parameters thereof.

(7) In the procedures for the designation of universal service operators referred to in paragraphs 4 and 5 of this Article, the Agency must be careful not to distort competition and it must take into account the principles of objectivity, transparency and non-discrimination, whereby no operator may be a priori excluded from being designated the universal service provider.

(8) The conditions of and the procedure for public tender referred to in paragraph 4, item 2 of this Article shall be prescribed in more detail in the ordinance referred to in Article 35, paragraph 7 of this Act.

(9) The Agency shall immediately notify the Commission of the adoption of the decision on the designation of universal service operator referred to in paragraphs 4 and 5 of this Act, and on any amendments to this decision."

Article 37

In Article 37, paragraphs 3 and 4 are added to read:

"(3) Universal service operators must notify the Agency in advance of the intention to separate their access network, in its significant part or in its entirety, into a separate legal person with the change in ownership structure so that the Agency may assess the impacts of such an intention on the provision of access at a fixed location or on the provision of publicly available telephone services.

(4) In the case referred to in paragraph 3 of this Article, the Agency may impose, amend or withdraw certain obligations arising from the obligation to provide universal services on the universal service operator."

Article 38

In Article 38, paragraph 1, subparagraph 2 the words: "paragraph 3" are replaced by the words: "paragraph 4".

Article 39

In Article 39, paragraph 3, subparagraph 1, the words: "or other publicly available access points" are added after the words: "public pay telephones".

Article 40

Article 40 is amended to read:

"(1) Funds for the recovery of net costs referred to in Article 38 of this Act shall be secured from a separate account opened with the Agency.

(2) The Agency shall decide on the mechanism for the recovery of net costs to universal service operators after the adoption of the decision referred to in Article 38, paragraph 3 of this Act, in accordance with state aid rules.

(3) The recovery mechanism referred to in paragraph 2 of this Article shall comprise the funds from contributions by all operators of public communications services with share in total revenue on national retail markets for publicly available telephone services exceeding 2%. The amount of contribution by any individual operator of publicly available telephone services must be proportionate to the share of its annual revenue in relation to the total annual revenue of all operators who are under the obligation to make contributions in accordance with this Article. The total amount must correspond to the amount for the recovery of net costs established by the decisions referred to in Article 38, paragraph 3 of this Act.

(4) After the establishment of the recovery mechanism for net costs referred to in paragraph 2 of this Article, all operators of public communications services must notify to the Agency their annual revenue on retail markets of these services at the latest by the end of March for the previous calendar year.

(5) If an operator of public communications services fails to fulfil the obligation referred to in paragraph 4 of this Article, the Agency shall estimate the annual revenue of this operator on the basis of the available data.

(6) The Agency shall adopt a decision on the amount of contributions of operators of public communications services referred to in paragraph 3 of this Article. The operators shall be obliged to pay that contribution to the Agency's account referred to in paragraph 1 of this Article within 30 days from the date of the delivery of the decision.

(7) The recovery of net costs referred to in paragraph 1 of this Article shall be determined by the decisions of the Agency referred to in Article 38, paragraph 3 of this Act, at the end of each month in which the Agency received payments to its account referred to in paragraph 1 of this Article.

(8) The recovery of net costs referred to in paragraph 1 of this Article may not be requested by the universal service operator with more than 70% share in the total revenue earned on the market of these services."

Article 41

The title of Chapter VII is amended to read: "VII. PROTECTION OF RIGHTS OF END-USERS".

Article 42

The title above Article 41 is amended to read: "Subscriber's contract".

Article 41 is amended to read:

"(1) Rights and obligations arising from the subscription between the operator of public communications services and subscriber of these services shall be regulated by a contract (hereinafter: subscriber's contract).

(2) The subscriber's contract and general terms and conditions referred to in Article 42 of this Act must be written clearly to be easily understood by an average user and the understanding thereof should not require special education.

(3) Operators of public communications services must base their subscriber's contracts on general terms and conditions and the price list, in accordance with the provisions of Articles 42 and 42a of this Act. Every end-user shall be entitled to conclude a subscriber's contract on the basis of the published general terms and conditions referred to in Article 42 and the price list referred to in Article 42a of this Act.

(4) The subscriber's contract consists of the general terms conditions, the conditions for the use of services and the price list which are the subject of the contract. The subscriber's contract must also contain provisions laid down in a specific law regulating consumer protection and in another specific regulations. Mandatory duration of the subscriber's contract may not exceed two years and operators of public communications services must also offer one year subscriber's contracts. Contracts concluded by means of remote communication or electronic trade, as well as contracts concluded outside the business premises of the operator, must contain provisions in compliance with specific regulations.

(5) A subscriber shall be entitled to terminate the subscriber's contract at any time. The subscriber's contract may lay down that the subscriber, who terminates the contract before the expiry of the mandatory duration of the contract, must pay the monthly subscription for the remaining duration of the contract or a compensation amounting to the discount on products and services realised if the payment of thereof is more favourable for the subscriber, except in the case referred to in Article 42, paragraph 7 of this Act.

(6) If the operator of public communications services is unable to fulfil a contractual obligation in accordance with general terms and conditions, a subscriber shall be entitled to terminate the subscriber's contract without paying for the contractual obligations referred to in paragraph 5 of this Article, except for the due amount for the provided services.

(7) Where an operator of public communications services intends to discontinue the provision of its services, it must notify thereof the end-users of those services in writing or by electronic means at least 30 days in advance.

(8) The conclusion of a subscriber's contract for a public communications service with the end-user, including the connection to the public communications network, may not be conditioned on behalf of the operator of public communications services by the conclusion of a subscriber's contract for some other public communications service or by the purchase of subscriber's terminal equipment.

(9) Operators of public communications services must enable their end-users to determine in advance the date of conclusion, that is, the date of termination of a subscriber's contract.

(10) The provisions of this Article shall apply *mutatis mutandis* to users of pre-paid services.

(11) The provisions of this Article shall not apply to a subscriber's contracts concluded as part of public procurement procedures."

Article 43

The title above Article 42 is amended to read: "General terms and conditions".

Article 42 is amended to read:

"(1) Operators of public communications services shall prepare clear and comprehensive general terms and conditions establishing in particular the following:

1. name and seat of the operator,
2. services provided, in particular the following:
 - type and description of the provided services, including the basic technical characteristics and the time of establishment of the connection,
 - information on the possibility for toll free dialling of the single European emergency call 112 and other access codes for emergency services, and the possibilities to provide data on the location from which the call to these numbers originated and restrictions concerning calls to these numbers,
 - provisions on all other conditions for restricting access and use of services and applications,
 - provisions on the minimum quality of the offered services, in accordance with the quality of service indicators laid down in the ordinance referred to in Article 34 of this Article,
 - information on procedures for measuring and shaping electronic communications traffic used for avoiding congestion in the operator's network,
 - provisions on the technical assistance service and customer service and the procedure of contacting these services, including at least one toll free number for customer service for end-users,
 - information on all restrictions concerning the use terminal equipment in the operator's network,
 - information on measures undertaken by operators in case of incidents related to network safety or integrity and operator services, or in case of risks and sensitivity of the operator's network,

- provisions on procedures in case of network abuse related to unlawful activities and dissemination of harmful content,
 - provisions on protection from risk for personal safety and on protection in case of abuse of privacy and/or personal data,
3. procedure and conditions for the conclusion, duration, transfer, renewal, termination and expiry of subscription, including charges for termination before the expiry of contract binding period,
 4. provisions on charges and refunds applied in cases when quality of services is not as agreed or when problems with the use of services were the operator's fault,
 5. provisions on the manner of initiating procedures for the resolution of complaints made by end-users, including procedures for dispute resolution referred to in Articles 50 and 51 of this Act,
 6. provisions on procedures in cases of non-payment for the provided services.

(2) Operators of public communications services must deliver the general terms and conditions referred to in paragraph 1 of this Article, as well as all their amendments, to the Agency for review at the latest eight days prior to their publication in accordance with paragraph 3 of this Article. After the expiry of this time limit, the Agency shall publish at its website links to websites with general terms and conditions of operators and all of their amendments.

(3) General terms and conditions referred to in paragraph 1 of this Article, as well as all of their amendments, must be published by operators of public communications services in at least one daily newspaper sold in the entire territory of the Republic of Croatia, and at its website.

(4) An operator of public communications services may not apply amendments to the general terms and conditions referred to in paragraph 1 of this Article to the existing end-users before the expiry of the time limit of 30 days from the date of their publication, pursuant to paragraph 3 of this Article.

(5) In the case referred to in paragraph 4 of this Article, the operator of public communications services must notify the end-users in writing or by electronic means of the proposed amendments and the right of end-users to terminate the contract, in accordance with the general terms and conditions referred to in paragraph 1 of this Article, at the latest simultaneously with the publication of the amendments in accordance with paragraph 3 of this Article.

(6) Where the amendments to the general terms and conditions referred to in paragraph 1 of this Article are solely for the benefit of end-users, they shall apply to the existing end-users on the date of publication of these amendments in accordance with paragraph 3 of this Article.

(7) Where the amendments to the general terms and conditions referred to in paragraph 1 of this Article are less favourable for the end-user compared to the contracted general terms and conditions, the end-user shall be entitled to terminate the subscriber's contract without a charge, that is, the end-user shall be entitled to the refund of the unused amount within 30 days from the date of publication of the amendments in accordance with paragraph 3 of this Article.

(8) The offer of operators of public communications services to end-users on the basis of general terms and conditions referred to in paragraph 1 of this Article must contain a detailed and clear description of services offered and all the important conditions for the use of these services, as well as the conditions for the termination of use of these services.

(9) The Agency's Council may prescribe in the ordinance referred to in Article 34 of this Act the form and content of the notification published in accordance with paragraph 5 of this Article, as well as all other provisions that must be contained in the general terms and conditions referred to in paragraph 1 of this Article."

Article 44

A new title and Article 42.a are added after Article 42 to read:

"Price list

Article 42.a

(1) The price list shall contain the billing principles and prices of individual services, packages and other additional services provided by operators of public communications services to end-users, including access charges, where applicable, and the use of all services which are automatically available in the operator's networks, but for the connection or use of which the end-user must give explicit prior consent.

(2) The principles of the billing shall contain a detailed description of the type, time and duration of the call, that is, the amount of transferred data for each individual service, package or some other additional service.

(3) The price list referred to paragraph 1 of this Article must contain, in particular, the following:

- service packages and other additional services, maintenance charges, including all details of available discounts, termination charges and all additional charges,
- payment period for services, expressed on the basis of one or several months,
- payment methods for services offered by the operator and cost differentials arising from those payment methods,
- minimum use or mandatory duration of the contract required by the promotional conditions,
- all charges related to number portability, where applicable,
- all charges arising from the termination of subscription, including refunds in relation to terminal equipment.

(4) Operators of public communications services must submit the price list referred to in paragraph 1 of this Article, as well as all of its amendments, to the Agency for review at the latest eight days before their publication in accordance with paragraph 6 of this Article.

(5) The Agency shall publish at its website links to websites with operators' price lists and their amendments. The Agency shall offer to end-users at its website an independent assessment of charges arising from the prices of public communications services.

(6) Operators of public communications services must publish the price list referred to in paragraph 1 of this Article, and all of their amendments, at their websites and make them available at their selling points where there are easily accessible to end-users.

(7) An operator of public communications services may not apply amendments to the price list referred to in paragraph 1 of this Article to the existing end-users before the expiry of the time limit of 30 days from the date of their publication, pursuant to paragraph 6 of this Article.

(8) In the case referred to in paragraph 7 of this Article, an operator of public communications services must notify the end-users in writing or by electronic means of the proposed amendments and the right of end-users to terminate the contract, in accordance with the general terms and conditions referred to in Article 42 of this Act, at the latest simultaneously with the publication of amendments in accordance with paragraph 6 of this Article.

(9) Where the amendments to the price list referred to in paragraph 1 of this Article are solely for the benefit of end-users, they shall apply to the existing end-users on the date of their publication in accordance with paragraph 6 of this Article.

(10) Where the amendments to the price list referred to in paragraph 1 of this Article are less favourable for the end-user compared to the tariffs that were contracted, the end-user shall be entitled to terminate the subscriber's contract without a charge, that is, the end-user shall be entitled to a refund of the unused amount within 30 days from the date of publication of the amendments in accordance with paragraph 6 of this Article, except in cases where the amendments to the price list are:

1. a consequence of regulatory obligations arising from this Act,
2. a consequence of changes of value added tax,
3. a consequence of changes in wholesale prices to which the operator of public communications services has no influence.

(11) In case of changes or discontinuation of a package of services or other additional services, operators of public communications services must notify all of its end-users in writing or by electronic means at the latest 30 days before the intended change or discontinuation, and offer a different package of services or another additional service. In that case, the provisions of paragraphs 9 and 10 of this Article shall apply *mutatis mutandis*.

(12) The Agency's Council may prescribe the form and content of the notification referred to in paragraph 8 of this Article in the ordinance referred to in Article 34 of this Act."

Article 45

Article 43 is amended to read:

"(1) Operators of public communications services shall, to the extent to which it is technically feasible:

1. ensure equal availability of their services to disabled persons as to the majority of their users, including access to all emergency service numbers and the availability of the adequate terminal equipment,
2. notify disabled users, on a regular basis, of all details of services intended for that particular group of users.

(2) The Agency may adopt a decision requesting from operators of public communications services to undertake appropriate measures for the fulfilment of obligations referred to in paragraph 1 of this Article, and request from operators of public communications services to deliver data on the undertaken measures.

(3) Operators of public communications services must ensure to end-users of its services appropriate protection against abuse and fraud in the public communications networks and notify them of such protection in writing before initiating the provision of public communications services.

(4) End-users of public communications services shall not be obliged to cover expenses incurred to end-users or operators of public communications services by a third person if operators failed to comply with the obligations referred to in paragraph 3 of this Article.

(5) Operators of public communications services shall regularly publish transparent, appropriate and up-to-date information about its tariffs, packages and other additional services. Such information must be published in a clear and integral manner and must be easily accessible to end-users.

(6) The Agency's Council may prescribe additional conditions concerning the publication of information referred to in paragraph 5 of this Article in the ordinance referred to in Article 34 of this Act.

(7) Operators of public communications services must notify the existing and new users of their services, free of charge, in writing or by electronic means, on information of public interest delivered by competent public bodies comprising, in particular, the following:

1. the most frequent ways in which electronic communications services are used for unlawful activities or for dissemination of harmful content, especially where this may jeopardize rights and freedoms of others, including the breach of copyright and other related rights,
2. legal consequences of activities referred to in item 1 of this paragraph,
3. methods and means of protection of personal safety, privacy and personal data while using electronic communications services.

(8) Operators of public communications services must ensure a single information point through where end-users of their services may request information about tariffs, packages and other additional services thus enabling end-users to select the lowest cost of the use of services on the basis of their usage habits."

Article 46

In Article 44, paragraph 1 is amended to read:

"(1) Operators of public communications services must ensure the following:

1. automatically record data on provided services to its end-users for the purpose of billing for the provision of these services,
2. allow to their end-users verification and control of data on the charges for the provided services,
3. allow their subscribers, free of charge and upon their request, an itemized bill for the provided services."

Paragraph 4 is amended to read:

"(4) The itemised bill referred to in paragraph 1 of this Article shall be delivered, free of charge, to subscribers on the basis of a request submitted to the operator, and to users of pre-paid services in case of complaint referred to in Article 50 of this Act."

Paragraph 5 is amended to read:

"(5) The itemised bill referred to in paragraph 1 of this Article must protect the right to privacy of subscribers and users of pre-paid services in accordance with specific regulations on personal data protection."

Article 47

The title above Article 45 is amended to read: "Limitations on consumption of public communications services".

Article 45 is amended to read:

"(1) Operators of public communications services must allow their end-users, without delay, upon their request and free of charge, the barring of outgoing calls when monthly costs of these calls exceed a certain predetermined amount, in accordance with the Agency's decision.

(2) Operators of public communications services must allow their end-users, without delay and upon their request, a simple, full and free of charge barring of certain types of outgoing calls or calls to certain types of numbers or groups of numbers, or barring of sending and/or receiving of short text messages (hereinafter: SMS messages) and multimedia messages (hereinafter: MMS messages) to or from certain types of numbers or groups of numbers."

Article 48

Article 47 is amended to read:

"(1) Operators of publicly available telephone services must regularly update the public directory of all subscribers, except for those subscribers who have explicitly prohibited in writing the entry of their data into the directory. The public directory must be available to all users in an adequate electronic form.

(2) All end-users of publicly available telephone services shall be entitled to be entered into the public directory and to have their information made available to providers of directory enquiry services and to persons publishing public directories of subscribers, pursuant to the provisions of paragraph 9 of this Article.

(3) An operator of publicly available telephone services must, free of charge, inform end-users before the entry of their personal data into the public directory, about the purpose of an electronic and printed directory or a directory available to the public through directory enquiry services, and of all other possibilities of use of their personal data based on search functions embedded in electronic version of the directory.

(4) An operator of publicly available telephone services must inform end-users in advance, free of charge, of the intention to enter their personal data in the public directory in electronic or printed form, of the right to enter personal data into a public directory free of charge, depending on their own choice, taking into account the necessary number of data that the provider of the directory services determined in order to achieve the purpose of the directory, and of the right to verify, correct or withdraw personal data from the public directory free of charge. End-users may request, free of charge, for their personal data not to be entered into the public directory.

(5) The provider of directory enquiry services must request end-user's consent for any purpose other than browsing through personal data on the basis of end-user's name and surname or company name, and, where necessary, the smallest possible number of other parameters.

(6) The provisions of paragraphs 3 and 4 of this Article shall apply to end-users who are natural persons. Legal persons may not limit the entry of data necessary for their identification and communication into the public directory.

(7) The procedure and conditions for the creation and publication of a printed and electronic edition of at least one comprehensive public directory and at least one public directory enquiry service of subscribers of all publicly available telephone services in the Republic of Croatia referred to in Article 35, paragraph 2, item 2 of this Act shall be prescribed in more detail by the ordinance adopted by the Agency's Council.

(8) Operators of publicly available telephone services must ensure to all end-users access to the directory enquiry service referred to in paragraph 7 of this Article. End-users must be able to access directly the directory enquiry service in other Member States of the European Union by voice call or SMS.

(9) Operators of publicly available telephone services shall be obliged to, in order to make possible the accessibility of data from public directories, satisfy all reasonable requests of end-users, providers of directory enquiry services and persons publishing public directories of subscribers for the delivery of subscribers' information in the appropriate form and in compliance with the principles of objectivity, transparency, equality, non-discrimination and cost-orientation. With a view of fulfilling this obligation, provisions of Articles 56, 58, 59, 61 and 62 of this Act shall apply *mutatis mutandis*.

(10) Persons referred to in paragraph 9 of this Article must take into account the rights of end-users referred to in paragraphs 3, 4 and 5 of this Article.

(11) The provisions of paragraphs 3, 4, 5 and 6 of this Article shall not apply to public directories created and placed on the market in electronic or printed form before the entry into force of this Act.

(12) Where personal data of end-users have been entered in the public directory before the entry into force of this Act, the personal data of those end-users may remain in the directory in its electronic or printed form, including procedures for reverse browsing, unless otherwise requested by the subscribers on the basis of submitted notifications in accordance with the provisions of paragraphs 3 and 4 of this Article."

Article 49

Article 48 is amended to read:

"(1) If a subscriber has not paid the invoice for the provided services, an operator of public communications service shall be entitled to temporarily disconnect the subscriber's terminal equipment from the electronic communications network in accordance with the general terms and conditions.

(2) The operator of public telecommunications services may temporarily disconnect subscriber's terminal equipment from the electronic communications network in case of non-payment of the outstanding amount within 30 days from the delivery of a written dunning letter indicating temporary disconnection in case of non-payment and if the subscriber failed to file a complaint referred to in Article 50 of this Act.

(3) Temporary disconnection of the subscriber's terminal equipment referred to in paragraph 2 of this Article must be, as far as it is technically feasible, limited only to those services for which the invoice has not been paid.

(4) For the duration of temporary disconnection of the subscriber's terminal equipment referred to in paragraph 2 of this Article, the subscriber shall be entitled to receive incoming calls when in the Republic of Croatia and to make outgoing calls to emergency services and to the toll free number of his/her operator's customer service.

(5) Where the subscriber has not paid the outstanding amount after the expiry of 30 days from the date of temporary disconnection, the operator may permanently disconnect the subscriber's terminal equipment from the electronic communications network and terminate the subscriber's contract in accordance with the general terms and conditions."

Article 50

The title above Article 49 is amended to read: "Special tariff services".

Article 49 is amended to read:

"(1) Mutual rights and obligations arising from the provision of special tariff services shall be regulated in more detail by contracts concluded by all operators involved in the provision of an individual special tariff service. The basic elements of these contracts

concerning the end-users of special tariff services shall be provided for in the ordinance referred to in Article 34 of this Act.

(2) Operators of special tariff services must, when advertising their services, give a description of the service and its price in an appropriate and easily intelligible manner. Deception of users by giving false or misleading information or by concealing important information, such as the price of services or age-related limitations of use of service, shall be prohibited.

(3) Operators of special tariff services must ensure that the price and the start of the charging period are announced at the beginning of every call towards a special tariff service, and that the termination of the call after this announcement is possible, within a reasonable period of time, and before the charging period starts.

(4) Operators of special tariff services must, with a prior announcement, terminate every call to a special tariff service charged per minute when the amount of the call exceeds the amount prescribed by the ordinance referred to in Article 34 of this Act, or they must terminate the call when its duration reaches 30 minutes, whichever is sooner. The charging for special tariff SMS messages and MMS messages may commence only after the user has explicitly confirmed his/her intention to use this service. The ordinance referred to in Article 34 of this Act may also prescribe other conditions for the provision of special tariff services.

(5) End-users shall access special tariff services by means of special numbers and special codes in accordance with the Numbering Plan and the Addressing Plan.

(6) An operator of public communications services with which the end-user concluded a subscriber's contract must deal with the end-user's complaint concerning the special tariff services referred to in Article 50 of this Article after having conducted proper administrative and technical verification of all elements of the provision of these services, in compliance with the time limits referred to in Article 50, paragraphs 12 and 13 of this Act.

(7) Computer software used to connect subscriber computers to the Internet via the special tariff services (hereinafter: Internet dialler software) may use only special dialling codes established by the Numbering Plan. It shall be prohibited to use any other dialling codes for the purpose of Internet dialler software in the Republic of Croatia.

(8) Operators of publicly available telephone services shall make possible the switching of calls to Internet dialler software in accordance with paragraph 7 of this Article after having obtained prior consent from the subscriber.

(9) The procedure and conditions for the provision of special tariff services, including measures for the prevention of deceitful and unlawful actions in relation to the provision of special tariff services and for the suppression of fraud caused by the Internet dialler software shall be prescribed in more detail by the ordinance referred to in Article 34 of this Act."

Article 51

Article 50 is amended to read:

"(1) Any end-user shall be entitled to submit a complaint to an operator of public communications services concerning the provision of services, the amount charged for the provided service, the quality of the provided services and the breach of provisions of the subscriber's contract.

(2) The complaint referred to in paragraph 1 of this Article shall be submitted in writing by an end-user to the operator of public communications services, who shall conduct complaint resolution procedure. The complaint must contain facts and evidence on which it is based.

(3) The end-user may submit a complaint referred to in paragraph 1 of this Article concerning the following:

1. the amount charged for the provided service within 30 days from the due date on the bill for the provided services,
2. the quality of the provided service within 30 days from the date of provision of the service,
3. in all other cases referred to in paragraph 1 of this Article within fifteen days from the date of having learned about the action or omission by the operator of public communications services, and at the latest within 30 days from the date of the breach of provisions of the subscriber's contract.

(4) In case of the complaint referred to in paragraph 1 of this Article, the operator of public communications services must verify the amount charged for the provided services or the quality of the provided services, and, on the basis of administrative and technical verification performed, confirm the charged amount or adjust it to the correct amount. If the complaint is rejected as unfounded, the operator of public communications services shall be obliged to issue to the end-user a record of the verification listing all the elements of administrative and technical verification of all network elements and systems under the competence of the operator which were the subject of the verification. The operator of public communications services shall be responsible for the correctness of all the information in the record.

(5) The end-user who submitted the complaint referred to in paragraph 1 of this Article for the amount charged for the provided service shall pay, until the resolution of the complaint, the undisputed part of the bill or the average amount charged in the period of a maximum of three months before the period in question. In case of non-payment of the undisputed part of the bill for the provided services or the average amount charged in the period of a maximum of three months before the period which is the subject of the complaint, the operator shall be entitled to act in accordance with the provisions of Article 48 of this Act.

(6) The operator of public communications services must not terminate the provision of the service or disconnect the subscriber's terminal equipment from the electronic communications network pursuant to Article 48 of this Act to the subscriber referred to in paragraph 5 of this Article, who regularly pays all his subsequent undisputed bills for the provided services, until the termination of court procedure, or a dispute resolution procedure before the Agency referred to in Article 51 of this Act, or any other out-of-court proceedings, except in cases when the subscriber's contract was terminated by the subscriber.

(7) If the operator of public communications services has already discontinued the provision of service to the subscriber, or it has disconnected the subscriber's terminal

equipment from the electronic communications network before having received from the subscriber, competent body or entity a notification about the dispute resolution procedure in accordance with Article 51 of this Act, or about any initiated court procedure or other out-of-court proceedings, it shall immediately and free of charge reconnect the subscriber and continue with the provision of the service (reconnection), until the termination of court procedure or a dispute resolution procedure before the Agency referred to in Article 51 of this Act, or any other out-of-court proceedings, except in cases when the subscriber's contract was terminated by the subscriber.

(8) The obligation of the operator of public communications services referred to in paragraph 7 of this Article shall exist even in the case when the operator initiates a debt collection procedure against the subscriber.

(9) The end-user who submitted the complaint referred to in paragraph 1 of this Article concerning the quality of the provided service, may ask for the compensation of damage from the operator of public communications service if it is established that the quality of the provided service is lower than the level of quality of service laid down in the subscriber's contract concluded with the operator of public communications services, in the general terms and conditions of the operator of public communications service or in the ordinance referred to in Article 34 of this Act.

(10) The operator of public communications services shall not be obliged to compensate the damage referred to in paragraph 9 of this Article if the level of quality of the provided service is lower than the prescribed or agreed level of quality of service as a result of unexpected events which occurred after the conclusion of the subscriber's contract, and which could not be predicted, prevented, avoided or removed at the time of conclusion of this contract (*force majeure*).

(11) If it is determined that the operator of public communications services breached the provisions of the subscriber's contract or unjustifiably discontinued the provision of the service, the end-user who submitted the complaint referred to in paragraph 1 of this Article due to the breach of the provisions of the subscriber's contract or a complaint against unjustified discontinuation of the service provision, shall be entitled to terminate the subscriber's contract without charge and to be refunded for all unjustified charges.

(12) The operator of public communications services shall deliver a written answer to the end-user concerning the foundation of the submitted complaint referred to in paragraph 1 of this Article within the maximum of fifteen days from the date of receipt of the complaint, or within 30 days from the date of receipt of the complaint in the case referred to in Article 49, paragraph 6 of this Act.

(13) The end-user shall be entitled to file a complaint against the operator's written answer referred to in paragraph 12 of this Article to the Consumer Complaints Commission at the operator of public communications services within 30 days from the delivery of the written answer. The Consumer Complaints Commission of the operator of public communications services shall deliver a written answer to the end-user within 30 days from the date of receipt of the end-user's complaint."

Article 52

The title above Article 51 is amended to read: "Dispute resolution between end-users and operators".

Article 51 is amended to read:

"(1) In case of dispute between an end-user and an operator of public communications services concerning the provision of services, the amount charged for the provided service, the quality of the provided service or a complaint against the breach of provisions of the subscriber's contract, the end-user may submit a motion for dispute resolution to the Agency within 30 days from the date of delivery of the written answer of the Consumer Complaints Commission referred to in Article 50, paragraph 13 of this Act. The statute of limitations on the disputed claim shall not run pending the resolution of the dispute before the Agency.

(2) The Agency shall, *ex officio*, pay attention to its real competence during the entire dispute resolution procedure referred to in paragraph 1 of this Article. If an end-user brings charges before the competent court based on the same factual and legal basis during the dispute resolution procedure, the dispute resolution procedure before the Agency shall be terminated.

(3) The Agency shall resolve disputes referred to in paragraph 1 of this Article in a transparent, objective and non-discriminating manner on the basis of a proposal by the Commission for the Protection of Users' Rights, in accordance with the provisions of this Act and specific regulations.

(4) The Commission referred to in paragraph 3 of this Article shall act as an advisory body established within the Agency pursuant to a specific act regulating consumer protection. The functioning of the Commission referred to in paragraph 3 of this Article shall be regulated in more detail by the ordinance adopted by the Agency's Council.

(5) The operator of public communications services shall participate in dispute resolution procedures referred to in paragraph 1 of this Article, fully cooperate with the Agency for the purpose of dispute resolution, and deliver to the Agency all the necessary information, documents and statements, pursuant to the provisions of Article 15 of this Act.

(6) Having received the proposal of the Commission referred to in paragraph 3 of this Article, the Agency shall adopt a decision resolving the dispute referred to in paragraph 1 of this Article on the basis of information, documents and statements of parties in the proceedings, generally without a hearing.

(7) The Agency shall adopt a decision on dispute resolution referred to in paragraph 1 of this Article as soon as possible and at the latest within four months from the date of submission of the motion for resolution of the dispute.

(8) The Agency's decision on dispute resolution referred to in paragraph 1 of this Article must be well-argued.

(9) The decision referred to in paragraph 8 of this Article shall be published by the Agency in accordance with the provisions of Article 14 of this Act."

Article 53

Article 52 is amended to read:

"(1) When analysing the relevant markets, the Agency shall perform the following:

- identify relevant markets susceptible to *ex ante* regulation pursuant to Article 53 of this Act,
- define the relevant markets and assess the existence of one or more operators with significant market power on that market with a view to assessing the effectiveness of competition on the relevant market in accordance with Article 54 of this Act,
- impose regulatory obligations on operators with significant market power in case of if competition on the analysed relevant market is not effective, in accordance with Article 56, paragraph 2 of this Act,
- withdraw all regulation obligations imposed on operators with significant power in case of effective competition on the analysed relevant market, in accordance with Article 56, paragraph 1 of this Act.

(2) The Agency shall carry out the procedure referred to in paragraph 1 of this Article on a regular basis, at least once in every three years following the completion of procedures referred to in paragraph 1 of this Article.

(3) By way of derogation from paragraph 2 of this Article, the Agency:

- may postpone the procedures referred to in paragraph 1 of this Article for up to another three years after having notified the Commission about reasons for such a postponement, and the Commission did not deliver its opinion within 30 days from the date of delivery of such a notification,
- must, within two years from the adoption of the Commission Recommendation on relevant markets susceptible to *ex ante* regulation, conduct the procedures referred to in paragraph 1 of this Article for markets for which the procedure in Article 23 of this Act was not conducted.

(4) If procedures referred to in paragraph 1 of this Article are not conducted within the time limits referred to in paragraphs 2 and 3 of this Article, BEREC shall, upon the Agency's request, provide support to the Agency for the carrying out of procedures referred to in paragraph 1 of this Article, and the Agency shall, within six months, notify the Commission in accordance with Article 23, paragraph 2 of this Act of the proposal of measures in the carrying out of procedures referred to in paragraph 1 of this Article.

(5) The operator may request from the Agency to carry out the procedures referred to in paragraph 1 of this Article if it proves the occurrence of changes which have a significant impact on regulatory obligations on the relevant market.

(6) While carrying out the procedures referred to in paragraph 1 of this Article, the Agency shall, in particular, take into account the Commission Recommendation on relevant markets susceptible to *ex ante* regulation, the relevant Commission Guidelines on market analysis and assessment of significant market power and opinions and common positions adopted by BEREC.

(7) During market analysis, the Agency shall, where necessary, cooperate with the body competent for the protection of competition."

Article 54

Article 53 is amended to read:

"(1) The Agency shall adopt a decision identifying relevant markets susceptible to *ex ante* regulation taking into account the relevant Commission recommendation referred to in Article 52, paragraph 6 of this Act.

(2) In addition to relevant markets specified in paragraph 1 of this Act, the Agency may adopt a decision identifying other markets susceptible to *ex ante* regulation, if the following three criteria have been cumulatively met on these markets:

1. the presence of high and non-transitory market entry barriers of structural, legal or regulatory nature,
2. a market structure which does not tend towards effective competition within the relevant time horizon,
3. the application of relevant competition legislation alone does not make possible the elimination of market entry failures concerned.

(3) The Agency may adopt a decision defining operators who are obliged to deliver all the necessary information for the identification of the relevant markets, including information on future development of the network and services which may influence wholesale services available on the relevant market, and accounting data on retail markets related to the identification of relevant wholesale markets.

(4) The Agency shall apply the procedures referred to in Article 52, paragraph 1 of this Act to those relevant markets which cumulatively satisfy all three criteria referred to in paragraph 2 of this Article."

Article 55

The title above Article 54 is amended to read: "Definition of relevant markets and assessment of the existence of operators with significant market power".

Article 54 is amended to read:

"(1) The Agency shall define a relevant market and assess the existence of operators with significant market power on the relevant markets identified in the relevant Commission Recommendation referred to in Article 52, paragraph 6 of this Act, and on each relevant market identified in accordance with Article 53 of this Act, taking, in particular, into account the Commission guidelines referred to in Article 52, paragraph 6 of this Act.

(2) The Agency shall adopt a decision identifying operators who are obliged to deliver all data necessary for the definition of the relevant markets and the assessment of the existence of operators with significant market power on these relevant markets including information on future development of the network and services which may influence wholesale services available on the relevant market, and accounting data on retail markets related to the identification of relevant wholesale markets.

(3) For the purpose of definition of the relevant market, the Agency shall identify the dimension of services and the geographical dimension bearing in mind the relevant Commission recommendations on market analysis and the assessment of significant market power and the applicable *acquis communautaire* in the field of competition.

(4) The Agency shall, in accordance with the criteria referred to in Article 55 of this Act, assess the existence of operators with significant market power on a relevant market and the effectiveness of competition on this market and adopt the appropriate decision thereof referred to in Article 56 of this Act.

(5) Before adopting the decision referred to in Article 56 of this Act, the Agency may ask for the opinion of the body competent for competition protection.

(6) In addition to market analyses in procedures referred to in Article 52, paragraph 1 of this Act, the Agency may conduct other market analyses with a view to achieving and promoting the regulatory principles and objectives referred to in Article 5 of this Act.

(7) Operators must deliver to the Agency all data necessary for carrying out other market analyses referred to in paragraph 6 of this Act, pursuant to the provisions of paragraph 2 of this Article and Article 15 of this Act."

Article 56

Article 55 is amended to read:

"(1) An operator shall be deemed to have significant market power if, either individually or as an operator controlled by another operator, or jointly with other operators, it enjoys a position equivalent to dominance, that means a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, users and consumers.

(2) For the purpose of assessing significant market power of an operator, the Agency shall calculate the market share in a certain relevant market and interpret it in accordance with the Commission guideline referred to in Article 52, paragraph 6 of this Act and the applicable *acquis communautaire* in the field of competition.

(3) Criteria applied to the assessment of individual significant market power of an operator referred to in paragraph 1 of this Article may, in particular, include the following:

- market share of the operator in the relevant market,
- control of infrastructure where there are high barriers to the development of infrastructural competition,
- technological advantage or superiority,
- lack of countervailing buying power,
- easy or privileged access to capital markets and money sources,
- diversity of products or services (for example, related products or services),
- economies of scale,
- economies of scope,
- level of vertical integration,
- highly developed distribution and sales network,

- lack of potential competition,
- obstacles to growth.

(4) Criteria applied to the assessment of joint significant market power of two or more operators may, in particular, include the following:

- mature market,
- stagnant or moderate growth on the demand side,
- low elasticity of demand,
- homogeneous product,
- similar cost structures,
- similar market shares,
- lack of technical innovation, mature technology,
- absence of excess capacity,
- high barriers to entry,
- lack of countervailing buying power,
- lack of potential competition,
- various kinds of informal or other links between the operators concerned,
- retaliatory mechanisms,
- lack or reduced scope for price competition.

(5) Where one of the operators has significant market power on a specific relevant market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the operator.

(6) An operator controlled by another operator within the meaning of the provisions of this Article shall mean a company controlled by another company, in accordance with the provisions of a specific law regulating protection of competition."

Article 57

The title above Article 56 is amended to read: "Imposition of regulatory obligations".

Article 56 is amended to read:

"(1) Where the Agency establishes in the market definition and analysis procedure referred to in Article 54 of this Act that the relevant market is effectively competitive, it may not impose any regulatory obligation referred to in Articles 58 to 64 of this Act. When previously imposed regulatory obligations exist, the Agency shall adopt a decision withdrawing these obligations on the relevant market.

(2) If the Agency establishes in the market definition and market analysis procedures referred to in Article 54 of this Act that competition on the relevant market is insufficiently effective, it shall adopt a decision defining operators with significant market power on that market in accordance with Article 55 of this Act and impose, maintain or amend certain regulatory obligations referred to in Articles 58 to 64 of this Act. Every operator with significant market power must be imposed at least one regulatory obligation by the Agency.

(3) Regulatory obligations imposed in accordance with this Article must be based on the nature of the identified market problem, and must be proportionate and justified considering the regulatory principles and objectives referred to in Article 5 of this Act. When deciding on the regulatory obligations the Agency shall take into account the operator's investments, in particular investments into emerging markets and the possibility of reasonable rate of return on invested capital while paying attention to the included risk.

(4) In exceptional circumstances, the Agency may adopt a decision imposing on the operator with significant power on the relevant market regulatory obligations concerning access to and/or interconnection, which do not result from regulatory obligations referred to in Articles 58 do 64 of this Act.

(5) The Agency shall submit to the Commission the proposal of the decision referred to in paragraph 4 of this Article in advance and it shall act in accordance with the Commission's opinion and accept amendments to the decision in accordance with the delivered Commission's proposal."

Article 58

Article 57 is amended to read:

"In case of transnational markets identified by a Commission decision in accordance with the relevant European Union directive, the Agency and competent national regulatory authorities of Member States of the European Union shall conduct a joint market analysis taking the utmost account of the relevant Commission guidelines and jointly decide on the imposition, maintenance, amendment or withdrawal of regulatory obligations referred to in Articles 58 to 64 of this Act."

Article 59

Article 58 is amended to read:

"(1) The Agency may, in accordance with the provisions of Article 56 of this Act, impose on operators the obligation of transparency in relation to interconnection and/or access requiring that certain information is made publicly accessible, such as:

- accounting information,
- technical specifications,
- network characteristics,
- terms and conditions for supply and use, including all conditions restricting access and/or use of services and applications,
- prices.

(2) The Agency may request from the operator, where this operator was imposed the obligation of non-discrimination, to publish a reference offer that will help other operators avoid additional costs which are not necessary for the provision of the service in question. The reference offer must be broken down into components according to market needs, and it must include the associated time limits, terms and conditions and prices of services.

(3) The Agency may, where it deems necessary, introduce amendments to reference offers referred to in paragraph 2 of this Article for the purpose of implementing regulatory obligations imposed in accordance with the provisions of this Act. For the purpose of implementing regulatory principles and objectives referred to in Article 5 of this Act, the amendment procedure of reference offers referred to in paragraph 2 of this Act may exceptionally be carried out several times in one year.

(4) The mandatory content of the reference offer, the level of detail required and the manner of publication of the reference offer shall be prescribed by the ordinance adopted by the Agency's Council.

(5) The ordinance referred to in paragraph 4 of this Article shall also prescribe the content, the level of detail required and the manner of publication of the reference offer for wholesale access to an electronic communications network, whereby this reference offer must contain, in particular, the data defined in the relevant European Union directive on access."

Article 60

Article 61 is amended to read:

"(1) The Agency may, in accordance with provisions of Article 56 of this Act, impose on operators the obligation to meet reasonable requirements for access to and use of specific network elements and the associated infrastructure and facilities.

(2) The obligation referred to in paragraph 1 of this Article may be imposed on the operators by the Agency in particular where it considers that denial of access or any other unreasonable conditions or restrictions having a similar effect would hinder the emergence of a sustainable competitive market at the retail level, or would be contrary to the end-users' interests.

(3) As a part of the obligation referred to in paragraph 1 of this Article, the Agency may, in particular, require from the operator the following:

- to give third parties access to specific network elements and/or equipment, including access to passive network elements and/or unbundled access to the local loop in order to, *inter alia*, enable carrier selection and/or preselection, and/or subscriber line resale offer,
- to negotiate in good faith with other operators requesting access,
- not to withdraw access to facilities already granted,
- to provide specified services on a wholesale basis for resale by third parties,
- to grant open access to technical interfaces, protocols or other key technologies that are indispensable for the interoperability of services or virtual network services,
- to provide co-location or other forms of shared use of electronic communications infrastructure and associated facilities,
- to provide special services necessary for ensuring interaction of services for the end-users, including the facilities for intelligent networks services or roaming services in mobile networks,
- to provide access to operational support systems or similar software systems necessary to ensure fair competition in the provision of services,
- to interconnect networks or network facilities,

- to provide access to related services, such as identification and location services, as well as presence services.

(4) In relation to obligations referred to in paragraph 3 of this Article, the Agency may specify additional requirements concerning the fulfilment of the principles of fairness, reasonableness and timeliness.

(5) When considering whether to impose the obligations referred in paragraph 3 of this Article, and in particular when assessing whether such obligations would be proportionate to the regulatory principles and the objectives set out in Article 5 of this Act, the Agency shall take account in particular of the following factors:

- the technical and economic viability of using or installing competing facilities, in the light of the rate of market development, taking into account the nature and type of interconnection and/or access involved, including viability of other wholesale access services, such as access to cable ducts,
- the feasibility of providing the access proposed, in relation to the capacity available,
- the initial investment by the facility owner, bearing in mind the risks involved in making the investment,
- the need to safeguard competition in the long-term, with a particular emphasis on economically effective infrastructure-based competition,
- where appropriate, any relevant intellectual property rights,
- the provision of pan-European services.

(6) When adopting the decision on the imposition of obligations referred to in paragraph 3 of this Article, the Agency may define technical or implementing requirements that must be met by operators providing access and/or operators using access where necessary to ensure regular network functioning. The obligation to abide by certain standards or technical specifications must be aligned with the provisions of Article 24 of this Act."

Article 61

In Article 62, new paragraph 2 is added after paragraph 1 to read:

"(2) With a view to promoting operators' investments, including investments into next generation networks, the Agency shall, when imposing obligations referred to in paragraph 1 of this Article, bear in mind the operators' investments and allow a reasonable rate of return on invested capital, taking into account all risks involved in new investments into development projects for access network infrastructure."

Former paragraphs 2 to 5 shall become paragraphs 3 to 6, respectively.

Article 62

Article 63 is amended to read:

"(1) The Agency may impose appropriate regulatory obligations on operators with significant market power on a certain retail market in accordance with the provisions of this Article only if, on the basis of the network analysis procedures conducted pursuant to Articles

52 to 57 of this Act, it establishes that the retail market in question is not effectively competitive and that regulatory obligations referred to in Articles 58 do 62 and Article 64 of this Act could not ensure the achievement of regulatory principles and objectives referred to in Article 5 of this Act.

(2) In the case referred to in paragraph 1 of this Article, the Agency shall, without delay, initiate the analysis of causes of the identified situation on the retail market and undertake all the necessary measures to remove the identified problems.

(3) Regulatory obligations of operators referred to in paragraph 1 of this Article may, in particular, include the prohibition to charge excessive prices, inhibit market entry or restrict competition by setting predatory prices, the prohibition to show undue preference to specific end-users or to unreasonably bundle certain types of services.

(4) The Agency may, in order to promote effective competition and protect interests of end-users, apply the following measures to operators referred to in paragraph 1 of this Article:

- introduce retail price caps,
- control of individual tariffs,
- cost-orientation of prices,
- setting of prices according to prices on comparable markets.

(5) Operators referred to in paragraph 1 of this Article must submit to the Agency retail prices for their services and the billing system principles they are based on at the latest 45 days before their publication, and the Agency may, before or after the publication of prices, adopt a decision amending or revoking the retail prices of services or determine the principles of the billing system if it finds them contrary to the regulatory obligations and measures referred to in this Article or to the provisions of a specific law regulating consumer protection.

(6) The Agency shall ensure the application of the necessary and appropriate cost-accounting systems in accordance with the provisions of Article 60 of this Act in the business operations of operators susceptible to regulatory obligations pursuant to this Article, whereby it may adopt a decision on the necessary forms and the accounting methodology.

(7) The compliance of the operator with the established cost accounting system shall be verified by an authorised independent auditor once a year and the auditor's report shall be published by the Agency in accordance with the provisions of Article 14 of this Act.

(8) The Agency may, only in exceptional cases, regulate retail prices of services on the relevant markets where competition is effective, when the following must be ensured:

- availability of special pricing systems adjusted to end-users with special social needs referred to in Article 35, paragraph 2, item 6 of this Act,
- possibility for end-users of universal services referred to in Article 35, paragraph 2 of this Act to avoid additional charges which are not necessary for the provision of services."

Article 63

The title above Article 64 is amended to read: "Functional separation of vertically integrated operators".

Article 64 is amended to read:

"(1) Where the Agency assesses that, even with the appropriate application of regulatory obligations referred to in Articles 58 to 63 of this Act, the market is still not effectively competitive and there are important and permanent impediments to competition or market problems related to the provision of certain wholesale access services on the relevant access market, it may, exceptionally, in accordance with the procedures referred to in Article 52, paragraph 1 of this Act, adopt a decision imposing on vertically integrated operators the obligation to separate their activities related to the provision of certain wholesale access services into a separate business unit.

(2) The separate business unit referred to in paragraph 1 of this Article must provide products and access services to all operators, including other business units within the operator referred to in paragraph 1 of this Article by means of the same systems and procedures and under the equivalent time limits and conditions, including conditions referring to prices and level of service.

(3) If planning to impose the regulatory obligation referred to in paragraph 1 of this Article, the Agency shall submit to the Commission a proposal containing the following:

1. evidence supporting the Agency's assessment referred to in paragraph 1 of this Article,
2. a reasoned assessment that chances for the development of effective and sustainable infrastructure-based competition within a reasonable time limit are poor or non-existent,
3. the analysis of the expected impact on the Agency, on the operator referred to in paragraph 1 of this Article and, in particular, on employees of the separate business unit, on the electronic communications sector as a whole, on investments in this area, in particular in relation to the need to ensure social and geographical connection and on other market participants, including, in particular, the expected impact on competition and possible transferred impacts on consumers,
4. the analysis of reasons justifying the imposition of the regulatory obligation referred to in paragraph 1 of this Article as the most effective implementation method for regulatory obligations with a view to resolving the identified competition difficulties or problems on the relevant market.

(4) The proposal for the Agency's decision referred to in paragraph 1 of this Article must contain the following:

1. a clearly defined nature and level of separation, including the definition of the legal status of the separate business unit,
2. the identification of the property of the separate business unit and products and services to be provided by this business unit,
3. provisions on management ensuring the independence of employees in the separate business unit and the appropriate reward system,
4. rules to ensure the fulfilment of obligations,

5. rules to ensure the transparency of implementation procedures, in particular in relation to other market participants,
6. the monitoring programme ensuring compliance, which also comprises the publication of annual report.

(5) In accordance with the Commission's decision on the proposal of the decision referred to in paragraph 1 of this Article, the Agency shall conduct a consistent analysis of other relevant markets connected with the access network in accordance with procedures referred to in Article 52, paragraph 1 of this Act, and it will, on the basis of the analysis, impose, maintain, amend or withdraw regulatory obligations referred to in Articles 58 do 63 of this Act, pursuant to the provisions of Articles 52 to 56 of this Act.

(6) The operator, who was imposed the regulatory obligation referred to in paragraph 1 of this Article, may be imposed any of the regulatory obligations referred to in Articles 58 do 63 of this Act or any other regulatory obligation approved by the Commission in accordance with Article 56, paragraphs 4 and 5 of this Act."

Article 64

The title above Article 65 is amended to read: "Voluntary separation of vertically integrated operators".

Article 65 is amended to read:

"(1) An operator with significant market power on one or several relevant markets must, within the appropriate time limit, notify the Agency in advance of the intention to transfer its access network or its significant part onto a separate legal person in different ownership, or of the establishment of a separate business unit for the provision of equivalent products or access services to operators at the retail level, including its own business units for retail services, as well as of any change of this intention and the final result of the separation procedure.

(2) The time limit referred to in paragraph 1 of this Article must be sufficient to permit the Agency to assess the impacts of the intended separation referred to in paragraph 1 of this Article on the existing regulatory obligations.

(3) For the purpose of the assessment referred to in paragraph 2 of this Article, the Agency shall conduct a consistent analysis of other relevant markets related to the access network, in accordance with procedures referred to in Article 52, paragraph 1 of this Act, and it will, on the basis of the analysis, impose, maintain, amend or withdraw regulatory obligations referred to in Articles 58 to 63 of this Act, pursuant to the provisions of Articles 52 to 56 of this Act.

(4) The separated legal person and/or a separate business unit referred to in paragraph 1 of this Article may be imposed any of the regulatory obligations referred to in Articles 58 to 63 of this Act or any other regulatory obligation approved by the Commission in accordance with Article 56, paragraphs 4 and 5 of this Act."

Article 65

Article 66 is amended to read:

"(1) Operators may negotiate and conclude contracts on technical and market conditions for access and/or interconnection at the national and international level.

(2) An operator requesting or granting access and/or interconnection shall not be obliged to notify the Agency in advance, in accordance with Article 32 of this Act, unless it provides electronic communications networks and services in the Republic of Croatia.

(3) Operators of public communications networks shall be entitled, and, if requested by other operators of public communications networks, the obligation to negotiate interconnection with each other with a view to providing publicly available electronic communications services in order to ensure the provision and interoperability of these services.

(4) Operators which acquired information from other operators before, during or after the process of negotiating access or interconnection may use that information solely for the purpose for which it was supplied while respecting the confidentiality of information in accordance with Article 15 of this Act. The received information shall not be passed on to any other party, in particular other departments, subsidiaries or partners, for whom such information could provide a competitive advantage.

(5) The Agency shall, *ex officio* or upon request of any of the parties in a dispute concerning access and interconnection, and, in particular, in case of a dispute concerning access or interconnection of networks which are not yet interconnected, adopt a following decision in accordance with the provisions of Articles 20 and 21 of this Act:

- a decision imposing obligations to operators controlling access to their end-users in order to ensure connection between end-users,
- a decision imposing technical or operational requirements ensuring regular operations of the network in accordance with the relevant standards or technical specifications referred to in Article 24 of this Act.

(6) Obligations and requirements imposed in accordance with paragraph 5 of this Article shall be objective, transparent, proportionate and non-discriminatory."

Article 66

In Article 68, paragraph 2, the words: "Articles 89 and 90" are replaced by the words: "Articles 88.a, 89, 90 and 92".

Article 67

In Article 69, paragraph 5 is amended to read:

"(5) The Agency shall regularly review the Addressing Plan and the Numbering Plan and may amend these plans in order to fulfil obligations arising from international regulations,

treaties or agreements, for the purpose of alignment with the relevant *acquis communautaire* or for the protection of availability of addresses and numbers, while bearing in mind the effect of these amendments, in particular direct and indirect costs of adjustment which may be incurred by operators or users."

Article 68

In Article 73, subparagraph 6 is amended to read:

"– they may not transfer the right to use addresses and numbers assigned through primary assignment, except in the case referred to in Article 74 of this Act. The prohibition shall not refer to secondary assignment of addresses and numbers in accordance with Article 70, paragraph 3 of this Act, whereby the operator shall be entitled only to the refund for primary assignment for use of addresses and numbers,".

After subparagraph 6, subparagraph 7 is added to read:

"– addresses and numbers assigned through secondary assignment to other operators and end-users must be accessible from all electronic communications networks in the Republic of Croatia."

Article 69

In Article 75, paragraph 1, item 5 is amended to read:

"5. if the prescribed fee for the use of addresses or numbers has not been paid even after the delivery of the dunning letter, within the time limit laid down in the dunning letter,".

In item 6, the words: "paragraph 4" are replaced by words: "paragraphs 6 and 10".

Article 70

Article 76 is amended to read:

"(1) Operators of publicly available telephone services, including mobile electronic communications network services, must enable end-users of their services, upon their request, to retain their assigned numbers independently of the change of the operator:

- in the case of geographic numbers, at a specific location,
- in the case of non-geographic numbers, at any location.

(2) The obligation of number portability referred to in paragraph 1 of this Article shall not refer to the porting of numbers between public communications networks providing services at a fixed location and mobile electronic communications networks, and to the keeping of numbers in case of change of an end-user's geographical location.

(3) Number porting and its activation in another operator's network must be carried out as soon as possible. An end-user, who concluded a contract on number porting into another

operator's network, must have his/her number activated in the other operator's network within one working day provided that all administrative and technical preconditions for number porting have been fulfilled by the end-user and by both operators participating in the number porting procedure, in which case the procedure for number disconnection and reconnection may not in any case last for more than one working day.

(4) All fees charged in the number porting procedure must be cost-oriented.

(5) Provisions on the mandatory duration of the subscriber's contract may not represent a restriction or obstacle for the end-user who submits a request for porting his/her number into another operator's network.

(6) The conditions and procedure for number porting in fixed and mobile electronic communications networks shall be regulated in more detail in the ordinance adopted by the Agency's Council."

Article 71

Article 77 is amended to read:

"(1) Operators of public communications networks and publicly available telephone services must make possible to all users toll free calls the single European emergency call number 112, and to other numbers for access to emergency services in the Republic of Croatia in accordance with the Numbering Plan, without the use of any means of payment, from any telephone device, including all public pay telephones.

(2) Operators referred to in paragraph 1 of this Article must deliver, free of charge, to a central authority competent for receiving calls to emergency services in accordance with a specific law all available data on calls made to the 112 number, including, in particular, information on the name and surname, or company name, of the caller, the calling number, time and duration of the call and location from which the call was made immediately after having forwarded the call made to the 112 number to the competent central authority.

(3) Operators referred to in paragraph 1 of this Article must handle calls to the 112 number in the same manner as calls to other access codes for emergency services which are still active in the Republic of Croatia.

(4) The procedure and conditions of use of the single European emergency call number 112, as well as technical and other requirements for operators referred to in paragraph 1 of this Article aimed at fulfilling the obligations towards the competent central body referred to in paragraph 2 of this Article, as well as quality of service indicators for the 112 number shall be prescribed in more detail by the ordinance adopted by the Minister.

(5) Any abuse of calls to the 112 number shall be prohibited, including, in particular, all types of malicious or disturbing calls. The ordinance referred to in paragraph 4 of this Article shall lay down in more detail the procedure and conditions for temporary and permanent disconnection from the electronic communications network of subscriber's or user's terminal equipment in case of established abuse of calls to the 112 number.

(6) The Agency shall, in cooperation with the central state administration body competent for protection and rescue, ensure that citizens are informed in an adequate and publicly available manner about the purpose and procedure of use of the single European emergency call number 112."

Article 72

Article 78 is amended to read:

"(1) Operators of publicly available telephone services must support the standard international access code "00" when establishing international calls to public communications networks outside the Republic of Croatia.

(2) The Agency shall ensure that all operators of publicly available telephone services, when technically and economically feasible, and when a subscriber did not, for commercial reasons, choose to limit access to calling parties located in certain geographical areas, make possible:

1. access to non-geographic numbers in the European Union,
2. access to all numbers used in the European Union regardless of the technology and devices used by operators, including numbers from the numbering plans of Member States of the European Union and Universal International Freephone Numbers (UIFN),
3. access to directory enquiry services in Member States of the European Union by means of a voice call or an SMS message,
4. the establishment of all calls to numbers from the European Telephony Numbering Space (ETNS) without prejudice to the right of an operator of publicly available telephone services to the compensation of costs for the routing of calls on its own public communications network, which must be comparable to costs related to calls to other Member States of the European Union.

(3) The Agency shall ensure that all operators of public communications networks and publicly available electronic communications services block, on a case-by-case basis, access to numbers and services where this is justified by reasons of fraud or abuse, and it shall, in such cases, adopt a decision requesting operators to withhold the relevant revenue from interconnection or other services.

(4) Operators of publicly available telephone services shall ensure access to non-geographic numbers in the Republic of Croatia to users from other countries, where technically and economically feasible, except where a called subscriber has chosen for commercial reasons to limit access to calling parties from certain geographical areas."

Article 73

After Article 78, a new title and Article 78.a are added to read:

"European numbers for services of social value

Article 78.a

(1) The Agency shall ensure that all operators of publicly available telephone services enable the establishment of all calls to numbers in the range starting with 116 which are reserved for services of social value, in accordance with the relevant Commission decision and the Numbering Plan, in particular to the 116000 number which is reserved for a service operating a hotline to report cases of missing children.

(2) Operators of publicly available telephone services shall ensure, to the utmost extent, that disabled users are able to access numbers in the 116 range, in particular when travelling to other Member States of the European Union, in accordance with standards and technical specifications referred to in Article 24, paragraph 1 of this Act.

(3) The Agency shall notify and inform the users in an appropriate and publicly available manner with the purpose and manner of use of numbers from the 116 range and with services referred to in paragraph 1 of this Article.

(4) The procedure and conditions for the assignment and use of numbers from the 116 range shall be prescribed in more detail in the ordinance referred to in Article 70, paragraph 9 of this Act."

Article 74

In Article 80, paragraph 3, the words: "at the European" are replaced by the words: "at the level of the European Union".

Paragraph 4 is deleted.

Article 75

In Article 81, paragraph 2 is amended to read:

"(2) The Radio Frequency Allocation Table shall specify the allocation of radio frequency bands for individual radio communications services in accordance with the Radio Regulations of the International Telecommunication Union (ITU) and shall additionally establish for each radio frequency band the following:

- its allocation to one or more radio communications services in the Republic of Croatia, with individual radio frequency bands not being intended for specific radio communications services (service neutral use),
- its assignment to one or more relevant applications or technologies, with the use of individual radio frequency bands being independent of the applied technology (technology neutral use),
- its allocation for civil and/or military use,
- the possibility of its transfer or leasing,
- conditions for assignment and use of the associated radio frequencies which may, in particular, indicate the application of decisions and recommendations of the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT), the relevant decisions and regulations of the European Union and other competent international organisations and institutions, and other relevant regulations, international treaties and agreements,

- the procedure of granting licenses for use of radio frequencies establishing the obligation to obtain these licenses in accordance with Article 82 of this Act."

Paragraph 4 is deleted.

Article 76

The title above Article 82 is amended to read: "Plans and conditions for assignment of radio frequencies".

Article 82 is amended to read:

"(1) More specific conditions for the assignment and use of radio frequencies within the framework of individual radio frequency bands determined by the Radio Frequency Allocation Table shall be established in radio frequency assignment plans adopted by the Agency.

(2) Radio frequency assignment plans must be based on the Ordinance on Radio Frequency Spectrum Allocation and they must be in compliance with the provisions of this Act and other regulations adopted pursuant to this Act.

(3) Radio frequency assignment plans may in particular contain the following:

- the division of the territory of the Republic of Croatia into areas for the granting of the license for use of the radio frequency spectrum with the definition of special conditions of use for the purpose of protection of adjacent areas from interference,
- the division of radio frequency bands to radio frequency channels together with the width of these channels, the space between these channels and safeguard channels,
- other necessary technical conditions for the use of radio frequencies.

(4) The basic conditions for the assignment and use of the radio frequency spectrum and the procedure for granting licenses for use of the radio frequency spectrum shall be provided for in the ordinance adopted by the Agency's Council.

(5) The ordinance referred to in paragraph 4 of this Article must in particular contain the following:

- procedure and conditions for granting of, amendments to and extension of validity of licenses for use of the radio frequency spectrum,
- layout and content of the form of the license for the use of the radio frequency spectrum,
- adequate technical documentation enclosed with the request for the granting of licenses referred to in Article 88 of this Act,
- validity of licenses for use of the radio frequency spectrum,
- contents, conditions and time limits for the implementation of public call referred to in Article 88.a of this Act,
- the criteria for the selection, content, procedure, conditions and time limits for the implementation of public tender referred to in Article 89 of this Act,
- general procedure and principles for the implementation of public auction referred to in Article 90 of this Act,

- procedure and conditions for the transfer or leasing of the radio frequency spectrum to another person in accordance with Article 92 of this Act,
- procedure and conditions for the notification of a radio station and delivery of technical and other information on certain types of radio stations, where necessary for the protection from interference and supervision of use of the radio frequency spectrum,
- procedure and conditions for technical checks, inspections, radio measurements and other measurements and tests with a view to identifying causes of interference in the radio frequency spectrum for certain types of radio stations,
- procedure and conditions for the restriction of use of radio frequencies,
- procedure and conditions for obligatory identification of certain types of radio stations,
- procedure and conditions of use of radio stations in case of danger and other emergencies."

Article 77

After Article 82, a new title and Article 82.a are added to read:

"Use of radio frequencies

Article 82.a

(1) The radio frequency spectrum shall be used on the following basis:

- without a license for use of the radio frequency spectrum in accordance with Article 86 of this Act,
- on the basis of a general license for use of the radio frequency spectrum referred to in Article 87 of this Act,
- on the basis of an individual license for use of the radio frequency spectrum issued on the basis of the procedure referred to in Articles 88, 88.a, 89, 90 and 92 of this Act.

(2) The number of individual licenses for use of the radio frequency spectrum issued in a specific radio frequency band on the basis of this Article may be limited only in the case referred to in paragraphs 6 and 7 of this Article, or when more valid requests for granting the license have been received and licenses cannot be granted due to the availability of a certain radio frequency band.

(3) The license for use of the radio frequency spectrum intended for digital broadcasting may be granted only to an operator of a public communications network.

(4) The license for use of the radio frequency spectrum reserved for analogue broadcasting shall be granted in accordance with the provisions of this Act to an electronic media broadcaster who carries out its activity in accordance with a specific law regulating electronic media.

(5) More detailed conditions for the assignment and use of the radio frequency spectrum for the purposes of amateur radio communications, radio amateur classes and taking of the radio amateur exam, technical and other conditions of use of amateur radio stations and equipment shall be provided for in the ordinance adopted by the Agency's Council.

(6) The Agency may introduce restrictions on use of the radio frequency spectrum for individual types of radio networks or wireless access technologies, on the basis of the principles of proportionality and non-discrimination, when necessary to:

1. avoid harmful interference,
2. protect public health against electromagnetic fields,
3. ensure technical quality of service,
4. ensure maximisation of radio frequency sharing,
5. safeguard effective use of spectrum,
6. ensure fulfilment of general interest objective, in accordance with paragraph 7 of this Article,
7. fulfilment of conditions from the Radio Regulations of the International Telecommunications Union (ITU).

(7) Electronic communications services must be provided in a specific radio frequency band reserved for such services and, where necessary for the purpose of fulfilment of a general interest objective and, in accordance with the relevant European Union *acquis communautaire*, including, but not limited to:

1. safety of life,
2. promotion of social, regional or geographical cohesion,
3. avoiding ineffective use of radio frequencies,
4. promoting cultural and linguistic diversity and media pluralism, for example by providing radio and television channel broadcasting services.

(8) The Agency shall, in accordance with Articles 85 and 85.a of this Act, carry out regular review of effectiveness and purposefulness of measures referred to in paragraphs 6 and 7 of this Act.

(9) Where the license for use of the radio frequency spectrum referred to in Articles 88, 88.a, 89, 90 or 92 of this Act has been issued for ten or more years, and rights to use cannot be transferred or leased in accordance with Article 92 of this Act, the Agency shall ensure that the conditions for use of the radio frequency spectrum laid down in such a license are applied and that licensee complies with the obligations from the license for the entire duration of the license. Where these conditions of use of the radio frequency spectrum are no longer applicable, the Agency shall act in accordance with the provision of Article 85.a, paragraph 5 of this Act.

(10) When establishing the procedure of granting licenses for use of the radio frequency spectrum referred to in paragraph 1 of this Article, the Agency shall pay special attention to the achievement of maximum benefits for users and to the promotion of fair competition."

Article 78

In Article 84, paragraph 1 is amended to read:

"(1) A fee shall be paid for the use of the radio frequency spectrum on the basis of a license referred to in Articles 88, 88.a, 89, 90, 91 and 92 of this Act, and the calculation, the amount of the fee, and the payment method shall be provided for in:

1. the ordinance adopted by the Agency's Council in accordance with Article 16 of this Act to cover the costs of the Agency in the management of the radio frequency spectrum,
2. the ordinance adopted by the Minister concerning the right to use the radio frequency spectrum."

Article 79

Article 85 is amended to read:

"(1) The Agency shall perform regular review of the radio frequency spectrum management and its efficient use via public consultation in accordance with Article 22 of this Act in order to make possible for all interested parties to give their opinions, comments and proposals concerning the existing manner of the radio frequency spectrum management.

(2) The review procedure referred to in paragraph 1 of this Article may comprise the entire radio frequency spectrum or selected radio frequency bands only.

(3) The Agency shall carry out the review procedure referred to in paragraph 1 of this Article *ex officio*.

(4) The public consultation, as part of the review procedure referred to in paragraph 1 of this Article, shall be carried out in case of a proposal for amendments to the Radio Frequency Allocation Table, radio frequency assignment plans and the ordinance referred to in Article 84, paragraph 1, item 2 of this Act.

(5) When making proposals for amendments to acts referred to in paragraph 4 of this Article, which are published for the purpose of public consultation in accordance with Article 22 of this Act, the Agency and the Ministry must in particular take into account the following:

- harmonisation of the allocation of the radio frequency spectrum at the level of the European Union and at the international level,
- technology development,
- possible impact of the proposed amendments on the electronic communications markets,
- possible impact of proposed amendments on the economic value of the radio frequency spectrum, in particular of radio frequencies for which licenses have already been granted,
- possible impact of proposed amendments to the Radio Frequency Allocation Table on the corresponding amendments of the radio frequency assignment plans, pursuant to Article 82.a, paragraphs 6 and 7 of this Act, and the ordinances referred to in Article 82, paragraph 4 and Article 84, paragraph 1, item 2 of this Act.

(6) The Minister shall align the ordinance referred to in Article 84, paragraph 1, item 2 of this Act, and the Agency shall align the ordinance referred to in Article 82, paragraph 4 of this Act with amendments to the Ordinance on Radio Frequency Spectrum Allocation, while taking into account the opinions, comments and proposals received in the public consultation."

Article 80

After Article 85, a new title and Article 85.a are added to read:

"Review of restrictions of use of the radio frequency spectrum in the granted licenses

Article 85.a

(1) Restrictions of use of the radio frequency spectrum in licenses for use of the radio frequency spectrum, in accordance with Article 82.a, paragraphs 6 and 7 of this Act, may be reviewed in accordance with Article 85 of this Act or on the basis of the request of the holder of the license for use of the radio frequency spectrum in the period of five years from the date of entry into force of this Act.

(2) The Agency shall, before deciding upon the request referred to in paragraph 1 of this Act, notify the requesting party of the outcome of the review of restrictions referred to in paragraph 1 of this Article and state the scope of its rights to use the radio frequency spectrum after the review. In the notification on the outcome of the review referred to in paragraph 1 of this Article, the Agency shall give to the requesting party a reasonable time limit for the withdrawal of the request.

(3) If the requesting party referred to in paragraph 1 of this Article withdraws its request in accordance with paragraph 2 of this Article, the conditions for use of the radio frequency spectrum shall remain unaltered until the expiry of the license for use of the radio frequency spectrum, and for the maximum of five years from the date of entry into force of this Act.

(4) After the expiry of the time limit referred to in paragraph 1 of this Article, the Agency shall undertake measures in accordance with the provisions of Article 82.a of this Act and ensure the application of the provision of Article 81, paragraph 2, subparagraph 2 of this Act to all licenses for use of the radio frequency spectrum granted until the date of entry into force of this Act, except in cases referred to in Article 82.a, paragraphs 6 and 7 of this Act.

(5) Where the Agency establishes in accordance with Article 82 of this Act and paragraph 1 of this Article that the conditions from Article 82.a, paragraphs 6 and 7 of this Act no longer apply, it may, in relation to the radio frequency band which is the subject of the procedure referred to in paragraph 1 of this Article and for which the license referred to in Articles 88, 88.a, 89, 90 or 92 of this Act was issued, decide the following:

1. the radio frequency band may be used on the basis of the license referred to in Article 87 of this Act after the expiry of the license referred to in Articles 88, 88.a, 89, 90 or 92 of this Act,
2. the radio frequency band may be transferred or leased in accordance with the provisions of Article 92 of this Act.

(6) When applying the provisions of this Article, the Agency shall take the necessary measures to promote fair competition.

(7) Measures imposed by the Agency as a result of the application of the provisions of this Article shall not represent the granting of new rights to use the radio frequency spectrum and the provisions of Articles 88 to 93 of this Act shall not apply to them."

Article 81

In Article 86, paragraph 2 is amended to read:

"(2) The Armed Forces of the Republic of Croatia, the police, the security services, the state administration body competent for protection and rescue and emergency services shall use radio frequency bands reserved for civil and military use by the Radio Frequency Allocation Table without obtaining a license for use of the radio frequency spectrum in accordance with conditions for the assignment and use laid down in the Table and the ordinance referred to in Article 82, paragraph 4 of this Act. A prior approval of the Agency must be obtained for such use of radio frequency bands."

Paragraph 4 is amended to read:

"(4) The fee referred to in Article 84 of this Act shall not be paid for use of the radio frequency spectrum in cases referred to in paragraphs 1 and 2 of this Act."

Article 82

Article 88 is amended to read:

"(1) The Agency shall grant an individual license for use of the radio frequency spectrum based on a request for granting the license, for the radio frequency band in relation to which such a procedure of granting licenses has been established in the Ordinance on Radio Frequency Spectrum Allocation.

(2) The Agency shall grant the license referred to in paragraph 1 of this Article provided that the following conditions have been met:

- if the request for the granting of the license has been submitted in accordance with the ordinance referred to in Article 82, paragraph 4 of this Act,
- if the request for granting a license has been aligned with the conditions for assignment and use which have been defined for the related radio frequencies in the Radio Frequency Allocation Table and the radio frequency assignment plan,
- if the requested radio frequencies are available.

(3) Requests for granting the license referred to in paragraph 1 of this Article shall be processed in the order they are received by the Agency, and, if technically feasible, the Agency may receive such requests by electronic means as well.

(4) The Agency shall adopt a decision rejecting the request for granting the license referred to in paragraph 1 of this Article if it established that the conditions referred to in paragraph 2 of this Article have not been met.

(5) The import, manufacture, sale, leasing and use of devices for jamming the radio frequencies of public electronic communications networks shall not be allowed, except in cases when necessary for the purpose of defence or national security.

(6) On the basis of a submitted request by a competent state administration body or a competent security services, the Agency shall issue an individual license for use of the device

referred to in paragraph 5 of this Article on a certain location or territory following a procedure during which all operators who have been granted license for use of the related radio frequency spectrum will be heard.

(7) The procedure for the submission of the request referred to in paragraphs 1 and 6 of this Article, the procedure and time limits for the granting of the license referred to in paragraphs 1 and 6 of this Article, and the conditions of use of the radio frequency spectrum for which the license referred to in paragraphs 1 and 6 of this Article is granted shall be provided for in more detail in the ordinance referred to in Article 82, paragraph 4 of this Act."

Article 83

After Article 88, a new title and Article 88.a are added to read:

"Procedure for granting individual licenses by public call

Article 88.a

(1) The Agency shall grant an individual license for use of the radio frequency spectrum on the basis of a previously conducted public call, for the radio frequency band in which, due to limited availability of the radio frequency spectrum, such a procedure of granting licenses has been established in the Ordinance on Radio Frequency Spectrum Allocation.

(2) The procedure for granting the license referred to in paragraph 1 of this Article shall be initiated by the Agency *ex officio*.

(3) The request for license referred to in paragraph 1 of this Article shall be submitted to the Agency within 30 days from the date of publication of the public call referred to in paragraph 1 of this Article.

(4) Where the Agency receives one or more requests referred to in paragraph 3 of this Article, which may be satisfied depending on the availability of the radio frequency band, it shall adopt a decision granting the license for use of the radio frequency spectrum to the applicants in the order in which the requests are received by the Agency, within 30 days from the expiry of the time limit referred to in paragraph 3 of this Article.

(5) If the Agency receives more requests referred to in paragraph 3 of this Article, which may not be satisfied because of the availability of the radio frequency spectrum, it shall adopt a decision to invite a public tender in accordance with Article 89 of this Act or a decision to organise a public auction in accordance with Article 90 of this Act, within 30 days from the expiry of the time limit referred to in paragraph 3 of this Article.

(6) Decisions adopted during the public call procedure from this Article shall be published by the Agency in accordance with the provisions of Article 14 of this Act. The decisions referred to in paragraphs 4 and 5 of this Article shall be delivered by the Agency to all applicants participating in the public call.

(7) The content, conditions and time limits for the carrying out of the public call referred to in paragraph 1 of this Article, as well as the contents and procedure for the submission of the request referred to in paragraph 3 of this Article shall be prescribed in more detail by the ordinance referred to in Article 82, paragraph 4 of this Act."

Article 84

The title above Article 89 is amended to read: "Procedure for granting individual licenses by public tender".

Article 89 is amended to read:

"(1) The Agency shall grant an individual license for use of the radio frequency spectrum on the basis of a previously conducted public tender for the radio frequency band in the following cases:

1. in the case referred to in Article 88.a, paragraph 5 of this Act, or
2. in the case where, due to the limitations of the radio frequency spectrum, such a procedure of granting licenses has been established in the Ordinance on Radio Frequency Spectrum Allocation.

(2) The procedure for granting the license referred to in paragraph 1 of this Article shall be initiated by the Agency *ex officio*.

(3) The selection criteria, on the basis of which the Agency shall select one or more tenderers in the public tender referred to in paragraph 1 of this Article, must be based on the principles of objectivity, transparency, proportionality and non-discrimination with a special emphasis on regulatory principles and objectives referred to in Article 5 of this Act.

(4) After having compared and assessed all the tenders received in the public tender procedure referred to in paragraph 1 of this Article, the Agency shall adopt a reasoned decision:

1. on the selection of one or several successful tenderers, depending on the available radio frequency band for which the tender was invited, and in the decision it shall grant one or several licenses for use of the radio frequency spectrum to the selected tenderers, or
2. on the annulment of the public tender if none of the tenders received in the public tender procedure referred to in paragraph 1 of this Article satisfied the selection criteria referred to in paragraph 3 of this Article.

(5) The time limit for the public tender referred to in paragraph 1 of this Article may not exceed six months from the date of publication of the public tender.

(6) Decisions adopted during the public tender procedure under this Article shall be published by the Agency in accordance with the provisions of Article 14 of this Act. Decisions referred to in paragraph 4 of this Article shall be delivered by the Agency to all tenderers participating in the public tender procedure.

(7) The contents, procedure, conditions and time limits for the implementation of public tender referred to in paragraph 1 of this Article, as well as the selection criteria referred

to in paragraph 3 of this Article, shall be prescribed in more detail by the ordinance referred to in Article 82, paragraph 4 of this Act."

Article 85

Article 90 is amended to read:

"(1) The Agency shall grant an individual license for use of the radio frequency spectrum on the basis of a previously conducted public auction, for the radio frequency band in the following cases:

1. in the case referred to in Article 88.a, paragraph 5 of this Act, or
2. in the case where, due to the limitations or economic value of the available radio frequency band, such a procedure of granting licenses has been established in the Ordinance on Radio Frequency Spectrum Allocation.

(2) The procedure for granting the license referred to in paragraph 1 of this Article shall be initiated by the Agency *ex officio*.

(3) On the basis of all offers received in the public auction procedure referred to in paragraph 1 of this Article, the Agency shall adopt a reasoned decision:

1. on the selection of one or several successful bidders, on the basis of conditions from the auction documentation offered in the public auction procedure and in the decision it shall grant one or several licenses for use of the radio frequency spectrum to the selected bidders,
2. on the annulment of the public auction if none of the received bids satisfies the requirements in the public auction.

(4) The time limit for the implementation of the public auction referred to in paragraph 1 of this Article may not exceed six months from the date of the publication of the start of the public auction.

(5) Decisions in the public auction procedure referred to in this Article shall be published by the Agency in accordance with the provisions of Article 14 of this Act. Decisions referred to in paragraph 3 of this Article shall be delivered by the Agency to all bidders in the public auction procedure.

(6) The general procedure and principles for the implementation of the public auction referred to in paragraph 1 of this Article shall be laid down in more detail in the ordinance referred to in Article 82, paragraph 4 of this Act. The rules and the type of the public auction applied in a specific case shall be provided for in more detail in the auction documentation which makes a constituent part of the decision referred to in paragraph 2 of this Article."

Article 86

In Article 91, paragraph 1, the words: "Articles 88, 89 and 90" are replaced by the words: "Articles 88, 88.a, 89 and 90".

In paragraph 4, the words: "Articles 88, 89 and 90" are replaced by the words: "Articles 88, 88.a, 89 or 90".

Article 87

After Article 91, a new title and Article 91.a are added to read:

"Amendment of conditions of use and the extension of the license for use
of the radio frequency spectrum

Article 91.a

(1) Conditions of use from the license for use of the radio frequency spectrum, granted pursuant to Article 88 of this Act, may be amended on the basis of an Agency's decision in accordance with the provisions of the ordinance referred to in Article 82, paragraph 4 of this Act.

(2) Conditions of use from the license for use of the radio frequency spectrum, which is granted pursuant to Articles 88.a, 89, 90 and 92 of this Act, may be amended by an Agency's decision in accordance with the provisions of Article 82, paragraph 4 of this Act and following a public consultation in accordance with Article 22 of this Act.

(3) The Agency may, pursuant to a request made by the holder of the license for use of the radio frequency spectrum granted in accordance with Articles 88.a, 89, 90 and 92 of this Act, extend the right to use the radio frequency spectrum following a public consultation in accordance with Article 22 of this Act.

(4) The request referred to in paragraph 3 of this Article shall be submitted to the Agency in writing, at the latest six months before the expiry of the license for use of the radio frequency spectrum.

(5) The procedure and conditions for amending the conditions of use and extension of the right to use the radio frequency spectrum shall be regulated in more detail by the ordinance referred to in Article 82, paragraph 4 of this Act."

Article 88

The title above Article 92 is amended to read: "Transfer or lease of the radio frequency spectrum".

Article 92 is amended to read:

"(1) A holder of the license for use of the radio frequency spectrum referred to in Articles 88, 88.a, 89 and 90 of this Act may transfer or lease the radio frequency band granted by this license to another person, after having obtained the consent from the Agency.

(2) The transfer or lease of the radio frequency band referred to in paragraph 1 of this Article may be agreed upon between the holder of the license for use of the radio frequency

spectrum referred to in Articles 88, 88.a, 89 and 90 of this Act and another person on a commercial basis, for a part of or the entire radio frequency band assigned by this license.

(3) The holder of the license for use of the radio frequency spectrum and the person to which the band is transferred or leased shall submit a joint written request to the Agency for the granting of consent referred to in paragraph 1 of this Article.

(4) When processing the request referred to in paragraph 3 of this Article, the Agency shall verify whether the principles of objectivity, transparency, proportionality and non-discrimination and regulatory principles and objectives referred to in Article 5 of this Act have been satisfied, and, in particular, whether the person to which the band is transferred and to whom it is leased, satisfies the conditions for assignment and use laid down in the relevant license for use of the radio frequency spectrum.

(5) The Agency shall adopt a decision denying the request referred to in paragraph 3 of this Article if it does not comply with the principles and objectives or does not satisfy conditions referred to in paragraph 4 of this Article.

(6) The transfer or lease of the radio frequency band shall entail the full transfer of rights and obligations arising from the relevant license for use of the radio frequency spectrum, including the conditions for assignment and use laid down in the license.

(7) The Agency shall grant new licenses for use of the radio frequency spectrum in accordance with paragraph 4 of this Article to the person referred to in paragraph 3 of this Article and to the previous holder of the license for use of the radio frequency band and annul the existing license for use of the radio frequency spectrum, which served as a basis of the transfer or lease of the radio frequency band in accordance with paragraph 2 of this Article.

(8) The radio frequency bands, for which transfer or lease were envisaged in accordance with the provisions of this Article, shall be specified by the Ordinance on Radio Frequency Spectrum Allocation.

(9) The procedure and conditions of transfer or lease of the radio frequency spectrum to another person, for a specific part or the entire assigned radio frequency band, shall be regulated in more detail by the ordinance referred to in Article 82, paragraph 4 of this Act."

Article 89

In Article 93, paragraph 1 is amended to read:

"(1) The Agency shall adopt a decision on the revocation of a license for use of the radio frequency spectrum if it establishes that any of the following conditions has been met:

1. if the license was issued on the basis of incorrect data or documents important for the license granting procedure,
2. if the licensee does not comply with the conditions of assignment and use provided for in the license even after the imposition of prescribed measures by electronic communications inspector,
3. if the licensee, even after the imposition of prescribed measures by electronic communications inspector, does not adjust the use of the assigned radio frequencies

- with the Radio Frequency Allocation Table, the associated radio frequency assignment plan or the ordinance referred to in Article 82, paragraph 4 of this Act,
4. if significant amendments to the Radio Frequency Allocation Table or the associated radio frequency assignment plan are necessary in order to harmonise the use of radio frequencies at the national or international level or to implement international treaties, agreements or conventions binding upon the Republic of Croatia, or for the purpose of more efficient protection from interference, or prevention of distortion or restriction of competition, after a previously obtained opinion of the licensee,
 5. if the prescribed fee for the use of the radio frequency spectrum has not been paid even after the delivery of the dunning letter, within the time limit laid down in the dunning letter,
 6. if the licensee was prohibited to provide electronic communications networks and services on the basis of the Agency's decision referred to in Article 33, paragraphs 6 and 10 of this Act,
 7. if the concession for the provision of radio and/or television services was revoked to the licensee, or the period for which it was granted the concession has expired in accordance with a specific law,
 8. if the licensee was prohibited by a final court judgment to provide electronic communications networks and services,
 9. if the licensee has renounced the use of the assigned radio frequencies in writing,
 10. if the licensee ceased to exist, without an heir or legal successor,
 11. if a prior decision of the Agency referred to in Article 68, paragraph 6 or the expert opinion of the Agency referred to in Article 68, paragraph 3 of this Act established that regulatory principles and objectives referred to in Article 5 of this Act have been violated,
 12. if the use of assigned radio frequencies is contrary to the public interest of the Republic of Croatia."

After paragraph 4, paragraph 5 is added to read:

"(5) Notwithstanding the provisions of paragraph 1, items 2 and 3 of this Article, the Agency may act in accordance with the provisions of Article 33, paragraphs 8 and 9 of this Act."

Article 90

Article 94 is amended to read:

"(1) For the purpose of harmonisation of use of radio frequencies at the national and international levels, radio frequency spectrum monitoring, measurements, tests and determination of causes of interference in the radio frequency spectrum and taking of prescribed measures for their elimination, and in order to perform other expert and technical activities within the framework of efficient radio frequency spectrum management, a system of monitoring and measurement centres and monitoring and measurement stations shall be established within the Agency, with the necessary measuring, computer and communications equipment, software, and measurement and other vehicles.

(2) Internal organisation, activities and equipment of the system referred to in paragraph 1 of this Article shall be regulated in more detail by an Agency's by-law.

(3) Operators of electronic communications networks must perform measuring, testing and detection of cause of interference and take measures for their elimination within their own electronic communications network.

(4) The Agency shall perform the tasks of measuring, testing and detecting causes of interference in the radio frequency spectrum caused by radio stations, radio systems and other R&TT equipment or other electronic communications equipment outside the electronic communications networks of operators.

(5) The activities referred to in paragraph 4 of this Article in relation to interference in the radio frequency spectrum caused by electronic communications networks, radio stations, radio systems or other R&TT equipment of another country shall be performed by the Agency in cooperation with the competent authority of that country and in accordance with the relevant regulations of the International Telecommunication Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT) and the European Union.

(6) The activities referred to in paragraph 4 of this Article in relation to interference in the radio frequency spectrum used by the Armed Forces of the Republic of Croatia, the police and the security services in accordance with the Radio Frequency Allocation Table shall be performed by their authorised persons, *ex officio* or upon the Agency's request, in cooperation with an electronic communications inspector.

(7) An electronic communications inspector may, during inspection, take or order the taking of measures prescribed by Article 112 of this Act for the purpose of measuring, testing and determining causes of interference in the radio frequency spectrum caused by a radio station or other R&TT equipment, an electronic communications network or other electronic communications equipment, and for the purpose of their elimination.

(8) Measures referred to in paragraph 7 of this Article must be carried out immediately if interference is detected in radio communications of the state administration body competent for protection and rescue and of the emergency services, in maritime and air traffic radio communications, and radio communications in the inland waterways navigation, the purpose of which is the protection of safety of human lives on land, at sea and in the air and on inland waterways.

(9) When undertaking the measures prescribed by the electronic communications inspector, operators of electronic communications networks referred to in paragraph 3 of this Article and owners or users of radio stations, radio systems and other R&TT equipment and other electronic communications equipment referred to in paragraph 4 of this Article shall have the obligations of persons subject to the inspection referred to in Article 115 of this Act."

Article 91

After Article 94, a new title and Article 94.a are added to read:

"Special authorisations to perform activities in electronic communications

Article 94.a

(1) The Agency may issue, under the procedure and conditions laid down by the ordinances referred to in Article 24, paragraph 8, Article 82, paragraph 4 and Article 95, paragraph 2 of this Act, a special authorisation to a legal person to perform the following activities:

- technical inspection and radio measurements referred to in Article 82 of this Act,
- measuring and testing aimed at detecting the cause of interference in the radio frequency spectrum,
- calculation and measuring of the electromagnetic field referred to in Article 95 of this Act,
- reconciliation of accounts for the provision of electronic communications services in maritime traffic,
- measuring and testing of electronic communications infrastructure, electronic communications network and other associated facilities in business and residential buildings,
- technical inspections of buildings in the part related to electronic communications infrastructure, electronic communications network and other associated facilities.

(2) Where the Agency establishes that the legal person referred to in paragraph 1 of this Article failed to perform the activities from the special authorisation in accordance with the conditions laid down in this Act or regulations adopted pursuant to this Act, it shall adopt a decision on the withdrawal of the authorisation from this legal person, completely or in the part in which the legal person no longer fulfils the prescribed requirements.

(3) On the date when the decision referred to in paragraph 2 of this Article becomes final, the legal person shall be obliged to terminate the performance of activities referred to in paragraph 1 of this Article, without being entitled to compensation."

Article 92

In Article 95, paragraph 2 is amended to read:

"(2) Special conditions for the installation and use of certain types of radio stations and the procedure and conditions for the calculation and measuring of electromagnetic field shall be laid down in the ordinance adopted by the Agency's Council."

Paragraph 4 is amended to read:

"(4) The certificate of conformity referred to in paragraph 3 of this Article shall represent a condition for issuing a use permit for a building connected with a radio station, if the procurement of the use permit has been prescribed by specific regulations on construction."

In paragraph 6, the words: "Article 94" are replaced by the words: "Article 94.a".

Article 93

In Article 96, paragraph 3, a subparagraph 3 is added after subparagraph 2 to read:

"– ensure, in cooperation with manufacturers of equipment, the provision of interoperable digital television services to disabled end-users."

Article 94

In Article 97, paragraphs 1 and 2 are amended to read:

"(1) On the basis of a decision adopted by the authority competent for electronic media on must-carry obligations concerning one or more radio and/or television programmes in the Republic of Croatia at the national, regional or other levels, and complementary services, in particular accessibility services allowing appropriate access to disabled end-users, the Agency shall adopt a decision designating operators of public communications networks which are obliged to carry such programmes.

(2) The must-carry obligations referred to in paragraph 1 of this Article may be imposed, in compliance with the principles of proportionality and transparency, only on operators of those public communications networks which are used by a significant number of end-users as their main means of receiving radio and television programmes, provided that there is a public interest, which must be reasoned in the Agency's decision referred to in paragraph 1 of this Article."

Article 95

The title above Article 99 is amended to read: "Security and integrity of electronic communications networks and services".

Article 99 is amended to read:

"(1) Operators of public communications services must take appropriate technical and organisational measures to safeguard security of their services, and, together with the operators of public communications networks undertake the necessary measures with respect to the protection of security of the electronic communications network and services. The undertaken measures must ensure the level of security corresponding to the existing threat level for network security, taking into account the available technical and technological solutions and cost of these measures. The undertaken measures shall be carried out in particular to prevent and diminish the impact of security incidents on the users and interconnected electronic communications networks.

(2) In case of significant risk of a breach of network security, an operator of publicly available electronic communications services must notify the users of its services of such risk. Where the risk lies outside the scope of the measures to be taken by the operator of publicly available electronic communications services, users must be informed about any possible measures for the elimination of the risk and/or consequences thereof, including an indication of the likely costs involved.

(3) The operator of publicly available electronic communications services must appoint a person responsible for the implementation of the measures referred to in this Article.

(4) Measures referred to in paragraph 1 of this Article shall, in particular:

1. ensure that personal data may be accessed only by authorised persons for legal purposes,
2. protect the transferred or stored personal data from accidental or unlawful destruction, accidental loss or change, and unauthorised or unlawful storage, processing, access and disclosure,
3. ensure the application of security policy to personal data processing.

(5) The Agency and the authority competent for personal data protection shall be entitled to supervise measures undertaken by operators of publicly available electronic communications services for the purpose of implementation of this Article and to give recommendations about the best practice concerning the level of security that must be achieved by such measures.

(6) Operators of public communications networks shall undertake all the necessary measures to guarantee integrity of their networks in order to ensure uninterrupted provision of services via these networks.

(7) Operators of public communications networks and operators of publicly available electronic communications services shall immediately notify the Agency in writing of the breach of security or loss of integrity which has had a significant impact on the operation of their networks or the provision of their services. The Agency may notify the public or request from operators of public communications networks and operators of publicly available electronic communications services to notify the public of such breach of security or loss of integrity, if it establishes that such notification is in the public interest.

(8) The Agency shall, where necessary, notify ENISA and competent national regulatory authorities of other Member States of the European Union of the breach of security or loss of integrity referred to in paragraph 7 of this Article. Once a year, the Agency shall submit to the Commission and to ENISA a summary report on notifications received during the previous calendar year in accordance with paragraph 7 of this Article, and on measures undertaken in relation to the received notifications.

(9) The Agency's Council shall adopt the ordinance providing for the procedure and time limits for the implementation of the provisions of paragraphs 6, 7 and 8 of this Article by operators of public communications networks and operators of publicly available electronic communications services.

(10) For the purpose of implementation of the provisions of paragraphs 6 to 9 of this Article, the Agency may order to operators of public communications networks and operators of publicly available electronic communications services the following:

1. to deliver data necessary for the assessment of security and integrity of their networks and services, including the documented security policy,
2. to organise the monitoring of the security of networks and services by a trained independent body or a competent state authority, and make the results of such monitoring available to the Agency. The costs of such monitoring of security shall be

borne by operators of public communications networks and operators of publicly available electronic communications services."

Article 96

After Article 99, a new title and Article 99.a are added to read:

"Breach of personal data in electronic communications

Article 99.a

(1) In case of breach of personal data, an operator of publicly available electronic communications services must immediately notify the Agency and the authority competent for personal data protection of the breach. The notification must contain a list of consequences of the breach and the proposed or undertaken measures to eliminate the cause of the breach. Where it is likely that the breach of personal data will have a negative effect on personal data or privacy of the user or another natural person, the operator of publicly available electronic communications services must immediately notify the user or another natural person of the breach.

(2) The operator of publicly available electronic communications services shall not need to inform a user or another natural person about the breach referred to in paragraph 1 of this Article where, on the basis of its notification referred to in paragraph 1 of this Article, the Agency decides that the operator applied to the personal data affected by the breach, in a satisfactory manner, the appropriate technological measures intended to make personal data unintelligible to any person attempting unauthorised access. The Agency shall deliver the opinion on the need to notify the user or another natural person to the operator of publicly available electronic communications services and to the authority competent for personal data protection.

(3) The authority competent for personal data protection may, notwithstanding the Agency's opinion referred to in paragraph 2 of this Article, request from the operator of publicly available electronic communications services, who has still not implemented the obligation, to notify the user or another natural person of the breach of personal data if it assesses that the breach could have a negative effect on the user or another natural person.

(4) The notification to the user or another natural person referred to in paragraph 3 of this Article must contain, in particular, the description of the nature of the breach of personal data and contact information for additional information, as well as measures recommended to diminish the possible negative effects of the breach of personal data.

(5) The Agency's Council may, in cooperation with the authority competent for personal data protection, in accordance with technical implementation measures adopted by the Commission, prescribe by the ordinance referred to in Article 99, paragraph 9 of this Act, the circumstances in which operators of publicly available electronic communication services must notify of the breach of personal data, as well as the form, contents and time limits for notifications referred to in paragraphs 1 and 3 of this Article.

(6) The Agency and the authority competent for personal data protection shall supervise the fulfilment of obligations of the operator of publicly available electronic communication services in relation to the provision of notifications pursuant to the provisions of this Act and undertake the appropriate measures in case of non-fulfilment of such obligations.

(7) Operators of publicly available electronic communications services shall keep a list of breaches of personal data containing the facts about the cause of the breach of personal data, effects of the breach and undertaken safeguard measures, which allows the Agency and the authority competent for personal data protection to verify operator's compliance with the provisions of this Article. The contents of the list of breaches of personal data must be restricted only to the purpose for which it is kept."

Article 97

In Article 100, paragraph 4 is amended to read:

"(4) The use of electronic communications networks to store information or to gain access to information already stored in the terminal equipment of a subscriber or user shall be allowed only on condition that the subscriber or user concerned has given his/her consent after having been provided with clear and comprehensive information in accordance with the specific regulations on personal data protection, in particular about the purposes of the processing. This shall not prevent any technical storage of, or access to data for the sole purpose of carrying out the transmission of a communication over an electronic communications network, or, as strictly necessary, in order to provide information society services explicitly requested by the subscriber or user."

Article 98

Article 102 is amended to read:

"(1) Traffic data referring to subscribers or users which has been processed and stored by an operator of the public communications network or publicly available electronic communications services must be erased or made anonymous when they are no longer needed for the purpose of conveyance of communication, except in cases referred to in paragraphs 2, 3 and 5 of this Article, and Article 109, paragraph 3 and paragraph 5, item 4 of this Act.

(2) Traffic data necessary for the purposes of billing for electronic communications services provided to subscribers or users and for interconnection costs may be processed only until the expiry of the statute of limitations on debts in accordance with general legislation on civil obligations.

(3) For the purpose of marketing and sale of electronic communications services or the provision of special tariff services, the operator of publicly available electronic communications services may process the traffic data referred to in paragraph 1 of this Article in the manner and for the duration necessary for marketing and sale or provision of such services, if the subscriber or user to whom the data relate has given his/her prior consent. The

subscribers or users may deny or withdraw their prior consent for the processing of traffic data at any time.

(4) The operator must inform the subscriber or user of the types of traffic data which are processed and of the duration of such processing for the purposes referred to in paragraph 2 of this Article, and before obtaining the prior consent of the subscriber or user, of the types of traffic data which are processed and of the duration of such processing for the purposes referred to in paragraph 3 of this Article.

(5) The access to the processing of traffic data in accordance with the provisions of Articles 1, 2, 3 and 4 of this Article shall be restricted to authorised persons of the operators of public communications networks and publicly available electronic communications services handling billing, electronic communications network management, customer complaints, fraud detection, marketing and sale electronic communications services or providing special tariff services. The access to the processing of traffic data must be restricted to actions necessary for the purposes of such activities.

(6) The provisions of paragraphs 1, 2, 3 and 5 of this Article shall not apply to the notification of traffic data to the Ministry, Agency, the competent court and other competent state authorities pursuant to specific regulations for the purpose of resolution of disputes referred to in Articles 20 and 21 of this Act, in particular concerning access and interconnection, or for the purpose of resolution of disputes referred to in Article 51 of this Act."

Article 99

Article 104 is amended to read:

"(1) Location data other than traffic data, relating to subscribers or users of public communications networks or publicly available electronic communications services may only be processed when they are made anonymous, or with the prior consent of the subscribers or users in the manner and for the duration necessary for the provision of a special tariff service.

(2) The operator must inform the subscriber or user, prior to obtaining their prior consent referred to in paragraph 1 of this Article, of the type of location data other than traffic data which will be processed, of the purposes and duration of the processing and whether the data will be transmitted to a third party for the purpose of providing the special tariff service. The subscriber or user shall be given the possibility to withdraw his/her consent for the processing of location data other than traffic data at any time.

(3) Where prior consent of the subscribers or users referred to in paragraph 1 of this Article has been obtained, the subscriber or user must continue to have the possibility, using a simple means and free of charge, of temporarily refusing the processing of location data other than traffic data for each connection to an electronic communications network or for each transmission of a communication.

(4) Processing of location data other than traffic data in accordance with paragraphs 1, 2 and 3 of this Article shall be restricted to authorised persons of the operators of public communications networks and publicly available electronic communications services, or to

authorised persons of a third party providing the special tariff services, and must be restricted to actions necessary for the purpose of providing the special tariff services."

Article 100

The title above Article 105 is amended to read: "Malicious or nuisance calls, SMS messages and MMS messages".

Article 105 is amended to read:

"(1) Any false representation of callers or senders of SMS messages and MMS messages shall be prohibited in public communications networks.

(2) If the end-user makes probable in a written letter to an operator of public communications services the case of receiving malicious or nuisance calls, SMS messages or MMS messages, the operator of public communications services shall, after having received the letter, store and make available data containing the identification of the caller, date and time of the call or the attempt to establish the call, that is, data on the sender, date and time of sending such SMS messages or MMS messages. The operator shall be allowed to record and store these data only on the basis of its end-user's written letter.

(3) In the letter referred to in paragraph 2 of this Article, the end-user must give the approximate date or time of certain malicious or nuisance calls, SMS messages or MMS messages. On the basis of this information, the operator of publicly available telephone services shall establish the name and surname or company name and address of the end-user from whom such calls or messages originated.

(4) The operator of public communications services shall keep the collected data on malicious or nuisance calls, SMS messages or MMS messages in accordance with Article 109 of this Act, and it shall, without delay, deliver such data to the competent police administration that will act in accordance with specific regulations and inform thereof, in writing, the end-user who submitted the letter referred to in paragraph 2 of this Article.

(5) Operators of public communications services must cooperate with each other for the purpose of tracking and discovering malicious or nuisance calls, SMS messages or MMS messages, and, in particular, for the purpose of the exchange of data referred to in paragraph 3 of this Article."

Article 101

Article 107 is amended to read:

"(1) The use of automated calling and communications systems without human intervention, facsimile machines or electronic mail, including SMS messages and MMS messages, for the purposes of direct marketing and sale may only be allowed in respect of subscribers or users who have given their prior consent.

(2) Trader, a natural or a legal person, may use details on electronic mail addresses obtained from its customers for the purpose of sale of products or services for direct marketing and sale of its own similar products or services provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of details on electronic mail addresses when they are collected and on the occasion of receiving any electronic message in case the customer has not initially refused such use of information.

(3) In any event, the practice of sending electronic mail, including SMS messages and MMS messages, for purposes of direct marketing and sale disguising or concealing the identity of the sender on whose behalf an electronic mail or message is sent, and which is contrary to the specific regulations on electronic commerce, as well as sending of electronic mail or messages without a valid electronic mail address or a number to which the recipient may send, free of charge, a request that such communications cease, or electronic mail or messages encouraging the recipients to visit websites which are contrary to the specific regulations on electronic commerce shall be prohibited.

(4) The provisions of paragraphs 1 and 2 of this Article shall not apply to calls made to legal persons for the purposes of direct marketing and sale.

(5) Operators providing electronic mail services must offer to subscribers of those services the possibility of filtering incoming electronic mail containing unsolicited communications or harmful content. Subscribers must be given the opportunity to turn on and off, and configure these filters in a simple manner.

(6) Operators providing electronic mail services must, in an appropriate and publicly available manner, publish the electronic mail address which users may use in case of abuse, and they must, at the latest within fifteen days from the receipt of the complaint via electronic mail, answer all complaints concerning the abuse of electronic mail.

(7) Operators providing electronic mail services must prohibit their subscribers in their subscriber's contracts the sending of unsolicited communications in accordance with the provision of this Article, and they must undertake the appropriate measures to prevent the abuse of the electronic mail account of their subscriber.

(8) When the operator providing electronic mail services receives proof that the subscriber has sent unsolicited communications or that the subscriber's electronic mail account has been abused, it shall establish the facts of the case and undertake the appropriate measures. Depending on the seriousness of the abuse, the operator shall either warn the subscriber or temporarily disconnect the subscriber's electronic mail account and, without delay, inform in writing the subscriber thereof.

(9) If the subscriber continues to breach the obligations referred to in paragraph 7 of this Article and defined in the subscriber's contract, the operator shall be entitled to permanently delete the subscriber's electronic mail account and terminate the subscriber's contract in accordance with general terms and conditions.

(10) The provisions of paragraphs 7, 8 and 9 of this Article shall not apply to subscribers where it was established that the abuse of the electronic mail account was made

by a third party, except in cases where the subscriber ignored repeated warnings made by the operator to undertake security measures.

(11) The procedure and conditions of efficient prevention and suppression of abuse and fraud in the provision of electronic mail services and the fulfilment of obligations by operators and subscribers established in this Article shall be prescribed in more detail by the ordinance adopted by the Agency's Council. When adopting this ordinance, the Agency shall cooperate in particular with operators providing electronic mail services."

Article 102

After Article 107, a new title and Article 107.a are added to read:

"Enforcement of data protection and security of electronic communications

Article 107.a

(1) The Agency or the authority competent for personal data protection may, in accordance with their authority, *ex officio* or upon request of an interested party, adopt a decision ordering the termination of breaches of provisions of Articles 99 to 107 of this Act.

(2) For the purpose of implementing the decision referred to in paragraph 1 of this Article, the Agency or the authority competent for personal data protection shall be entitled to request all data deemed necessary for the establishment of possible breaches of the provisions of Articles 99 to 107 of this Act or for monitoring and implementation of provisions of Articles 99 to 107 of this Act.

(3) The Agency's Council may prescribe by the ordinance referred to in Article 99, paragraph 9 of this Act measures to ensure efficient cross-border cooperation in the implementation of the provisions of Articles 99 to 107 of this Act and the creation of harmonised conditions for the provision of services involving cross-border data flows.

(4) Before adopting the ordinance referred to in paragraph 3 of this Article, the Agency shall timely deliver to the Commission a proposal of measures referred to in paragraph 3 of this Article together with the reasons for their adoption and the intended effects. The Commission may give proposals or recommendations concerning the envisaged measures, in particular to ensure that these measures shall not adversely affect the functioning of the internal market of the European Union.

(5) When adopting the ordinance referred to in paragraph 3 of this Article, the Agency's Council shall take utmost account of the proposals and recommendations made by the Commission referred to in paragraph 4 of this Article."

Article 103

Article 108 is amended to read:

"(1) Operators of public communications networks and publicly available electronic communications services, as well as legal and natural persons, which, pursuant to specific regulations, install, use or offer for use electronic communications network or provide electronic communications services in the territory of the Republic of Croatia, shall, at their own expense, ensure and maintain the function of lawful interception of electronic communications networks and services, as well as electronic communications lines to the operational and technical authority competent for the activation and management of the lawful interception measure in electronic communications, in accordance with a specific law regulating the field of national security.

(2) The competent authority referred to in paragraph 1 of this Article shall determine measures and standards for information security in relation to operators' obligations referred to in paragraph 1 of his Article for the purpose of ensuring and maintaining the function of lawful interception of electronic communications networks and services, and in cooperation with authorities authorised for the implementation of lawful interception measures in electronic communications networks and services, shall supervise the enforcement of measures and standards of information security. The operator referred to in paragraph 1 of this Article must appoint a person responsible for the enforcement of measures and standards of information security.

(3) The obligations of operators and of legal and natural persons referred to in paragraph 1 of this Article towards the competent authority referred to in paragraph 1 of this Article, and towards the authorities authorised for the implementation of lawful interception measures in electronic communications networks and services, in accordance with specific legislation related to national security and criminal procedure, shall be laid down in this legislation and in a separate regulation defining the obligations related to national security for legal and natural persons in electronic communications.

(4) The provisions of Articles 99 to 104 of this Act, as well as the provisions of specific regulations on personal data protection shall not apply to obligations referred to in paragraph 3 of this Article imposed on operators and legal and natural persons referred to in paragraph 1 of this Article.

(5) Operators referred to in paragraph 1 of this Article must keep a list of end-users of their services which they are obliged to deliver to the competent authorities referred to in paragraph 3 of this Article upon their request.

(6) The list of end-users referred to in paragraph 5 of this Article must contain all the necessary data enabling unambiguous and immediate identification of every end-user.

(7) If the operators referred to in paragraph 1 of this Article are compressing or encrypting electronic communications traffic, they must deliver such traffic data in their original form to the competent authorities referred to in paragraph 3 of this Article.

(8) Operators referred to in paragraph 1 of this Article must, upon the request of the competent authorities referred to in paragraph 3 of this Article, prevent their users from using the programmes for encrypting the contents of the communication.

(9) The Agency shall, upon request of a competent authority referred to in paragraph 1 of this Article, carry out inspection of the fulfilment of obligations referred to in this Article, which have been imposed on operators referred to in paragraph 1 of this Article."

Article 104

In Article 109, paragraph 5, items 3 and 4, the words: "Article 105, paragraph 3" are replaced by the words: "Article 105, paragraph 4".

Paragraph 7 is amended to read:

"(7) The supervision of the implementation of retained data security principles referred to in paragraph 5 of this Article, the collection of statistical indicators on retained data and annual reporting to the Commission on the access to retained data shall be prescribed in more detail in a separate regulation defining the obligations related to national security for legal and natural persons in electronic communications, in accordance with the relevant European Union directive on data retention."

A new paragraph 8 is added after paragraph 7 to read:

"(8) Operators referred to in paragraph 1 of this Article must establish procedures with a view to fulfilling the obligations referred to in this Article and, within the appropriate time limit, deliver to the competent authority referred to in Article 108, paragraph 1 of this Act, upon its request, information on the organised procedures, the number of requests received, the legal basis for the submission of requests and the type of data delivered upon the received requests."

Article 105

In Article 110, paragraph 4 is amended to read:

"(4) More detailed information on certain categories of retained data referred to in paragraph 1 of this Article shall be laid down in a separate regulation defining the obligations related to national security for legal and natural persons in electronic communications, in accordance with the relevant European Union directive on data retention."

Article 106

The title of Chapter XIII is amended to read: "XIII. INSPECTION".

Article 107

In Article 111, paragraph 1, the word: "Ministry" is replaced by the word: "Agency".

Paragraph 2 is amended to read:

"(2) The inspection referred to in paragraph 1 of this Article shall be carried out by electronic communications inspectors (hereinafter: inspectors), who are authorised employees of the Agency."

Paragraph 5 is amended to read:

"(5) Posts with inspection authority and more detailed conditions to be met by persons on such posts shall be laid down in an Agency's by-law."

A new paragraph 10 is added after paragraph 9 to read:

"(10) An inspector shall be held responsible if, while carrying out inspection, he/she fails to undertake, or impose measures or actions which he/she was obliged to undertake or impose pursuant to this Act or regulations adopted pursuant to this Act, or specific regulations on R&TT equipment, if he/she exceeds his/her prescribed authority, if he/she does not adopt a decision pursuant to the provisions of this Act, if he/she does not propose to the Agency the submission of the motion to initiate misdemeanour proceedings before the competent court or he/she does not issue a misdemeanour order pursuant to the provisions of this Act and the Misdemeanour Act, or fails to inform competent state authorities of the established irregularities."

Article 108

Article 112 is amended to read:

"(1) When carrying out the inspection, an inspector shall be authorised to:

1. request and inspect documents (ID card, passport and other) to establish the identity of the inspected person and other persons present during inspection,
2. enter and inspect business premises, buildings, objects, construction sites and land, and use technical facilities and equipment of the inspected person for the purpose of inspection,
3. inspect business documents, equipment and other matters enabling insight into business operations of the inspected person in relation to the application of this Act,
4. take statements from responsible persons in order to collect evidence about facts that may not be directly established, and from other persons present during inspection, and hear individual persons in administrative proceedings,
5. request in writing from the inspected person to provide correct and complete data and documents necessary for the purpose of inspection,
6. ask for a written report from the inspected person about measures and actions that were undertaken as ordered during inspection,
7. supervise the provision of electronic communications networks and services, in particular verify the fulfilment of requirements from the general authorisation laid down in this Act and regulations adopted pursuant to this Act,
8. order the compliance of the provision of electronic communications networks and services with the provisions of this Act and regulations adopted pursuant to this Act,
9. temporarily prohibit the provision of electronic communications networks and services of which the Agency was not notified or which were continuously provided contrary to the provisions of this Act and regulations adopted pursuant to this Act, and

- order measures preventing further performance of these activities until the Agency adopts its decision,
10. prohibit the import, manufacture, sale, renting and use of a radio station, R&TT equipment, or other electronic communications equipment which does not satisfy the requirements prescribed by this Act, regulations adopted pursuant to this Act and specific regulations, and order measures for its temporary or permanent withdrawal from the market,
 11. supervise the use of the radio frequency spectrum and check the functioning and use of radio stations, in particular the fulfilment of conditions laid down in this Act and regulations adopted pursuant to this Act, as well as the conditions laid down in licenses for use of the radio frequency spectrum,
 12. prohibit the operation and use of a radio station without a proper license or technical inspection, that is, of a radio station continuously used contrary to the provisions of this Act and regulations adopted pursuant to this Act and order measures preventing further operation and use of this radio station,
 13. establish the causes of interference in the radio frequency spectrum caused by the radio station, R&TT equipment, electronic communications network or other electronic communications equipment, or other technical equipment and order measures for their elimination,
 14. temporarily prohibit the operation and use of a radio station, R&TT equipment, electronic communications network or other electronic communications equipment, or other technical equipment causing interference in the radio frequency spectrum, until such interference is eliminated,
 15. monitor and inspect electronic communications infrastructure and other associated facilities, radio station, R&TT equipment, electronic communications network and other electronic communications equipment and verify the fulfilment of conditions laid down in this Act, regulations adopted pursuant to this Act and specific regulations,
 16. prohibit the installation of technical equipment in the protection zone or radio corridor of a radio station, or in the zone of electronic communications infrastructure and other associated facilities, if the installation of such equipment is not in compliance with the provisions of this Act and regulations adopted pursuant to this Act,
 17. inform the competent building inspector in writing if works are carried out or new buildings constructed in the protection zone or radio corridor of a radio station, or in the zone of electronic communications infrastructure and associated facilities, if the carrying out of such works or construction of such buildings is not in conformity with the provisions of this Act and regulations adopted pursuant to this Act, or with specific legislation regulating construction,
 18. supervise and verify measuring, testing and elimination of the interferences established in the radio frequency spectrum which are carried out pursuant to the provisions of this Act and regulations adopted pursuant to this Act, and order the necessary measurements, testing and elimination of the established interferences,
 19. supervise the carrying out of other activities in electronic communications, which are carried out on the basis of a special authorisation, and verify the fulfilment of conditions laid down in this Act and regulations adopted pursuant to this Act,
 20. order the removal of other established irregularities, deficiencies or oversights in the application of this Act, regulations adopted pursuant to this Act and other regulations the inspection of which is under his/her competence,

21. propose to the Agency the filing of a motion for the institution of misdemeanour proceedings before the competent court, in accordance with the provisions of the Misdemeanour Act,
22. order the undertaking of other measures and perform other actions in compliance with the purpose of inspection.

(2) Business premises within the meaning of this Act shall comprise residential and business premises and other premises where the person subject to the inspection carries out its activities.

(3) An inspector must handle data proven by the person subject to the inspection to be a business secret in accordance with the prescribed conditions for the handling of such data.

(4) During inspection and until the adoption of a court judgment, an inspector may temporarily confiscate documents and objects which may serve as evidence in misdemeanour proceedings, and seal or temporarily seize a radio station, R&TT equipment and other electronic communications equipment, in full or only certain parts of the equipment, which is entered into the minutes of the inspection. The inspector shall issue a certificate thereof containing detailed information on confiscated documents and objects, or seized equipment or parts of the equipment.

(5) The form, content and the procedure of use of the seal for sealing equipment referred to in paragraph 4 of this Article shall be prescribed by the ordinance adopted by the Minister.

(6) If, during inspection or on the basis of a report made by another inspector authorised to carry out inspection pursuant to a specific law, or on the basis of a report made by another competent authority, the inspector finds the breach of provisions of this Act or regulations adopted pursuant to this Act, he/she shall adopt a decision or undertake other measures prescribed under paragraph 1 of this Article at the latest within 30 days from the completion of the inspection or from the receipt of the report containing established facts important for adopting the decision. If the decision is not adopted within this time limit, this shall not exclude the obligation for its adoption.

(7) The inspector may propose to the Agency the filing of a motion for the institution of misdemeanour proceedings or he/she may issue a misdemeanour order in accordance with the provisions of the Misdemeanour Act, specifying fines and safeguard measures prescribed by the provisions of Articles 118, 119, 120 and 121 of this Act.

(8) The competent misdemeanour court shall notify the Agency of the outcome of misdemeanour proceedings."

Article 109

Article 113 is deleted.

Article 110

Article 114 is deleted.

Article 111

Article 115 is amended to read:

"(1) Persons subject to the inspection and state administration bodies, local and regional self-government units and legal persons with public authority must allow the inspector to carry out inspection and ensure the conditions for his/her undisturbed work, allow him/her to examine and use all the necessary data and documents, to use the associated infrastructure, equipment and other technical facilities, and, upon his/her written request, they must prepare and deliver, free of charge, all the additional information and documents necessary for the inspection.

(2) Persons subject to the inspection must, upon the inspector's request, temporarily discontinue their work and business operations in the supervised business premises, buildings or facilities during inspection, if the inspector cannot in any other way carry out inspection or establish the state of affairs.

(3) The inspector may, even after having completed the inspection, request from the person subject to the inspection to carry out certain activities in order to establish the actual state of affairs and set the time limit for the carrying out of these activities.

(4) The person subject to the inspection shall be considered as preventing the inspector from carrying out the inspection if he/she:

- fails to allow the entry and inspection of business premises, buildings, objects, construction sites or land where inspection is performed,
- fails to allow the inspection of electronic communications infrastructure and associated facilities, radio stations, R&TT equipment, electronic communications network or other electronic communications equipment which is the subject of the inspection,
- fails to permit the inspection of the requested documents, IDs and data in order to establish the state of affairs during inspection or in the time limit laid down in the minutes of inspection,
- fails to submit, upon the inspector's written request, within a certain time limit, all data and documentation necessary for inspection,
- fails to notify, within a certain time limit, of the undertaken measures ordered by the inspector to eliminate the established irregularities, deficiencies or oversights,
- fails to carry out the actions referred to in paragraphs 2 and 3 of this Article.

(5) If the inspector is faced with physical resistance during inspection or if there are grounds to expect such resistance, an authorised official from the competent police administration must provide all the necessary assistance to the inspector upon his/her request."

Article 112

The title above Article 116 is amended to read: "Decision of the electronic communications inspector".

Article 116 is amended to read:

"A decision of the inspector may not be appealed but an administrative dispute may be initiated before the High Administrative Court of the Republic of Croatia, which does not postpone the enforcement of the decision."

Article 113

In Article 117, paragraph 2 is amended to read:

"(2) An inspector may issue a misdemeanour order in misdemeanour proceedings in accordance with the provisions of the Misdemeanour Act and under the conditions laid down in this Act."

Article 114

Article 118 is amended to read:

"(1) A legal person shall be punished with a fine ranging from 1% to the maximum of 5% of the total annual gross revenue from the provision of electronic communications networks and services in the last year for which annual financial statements have been concluded, in the following cases:

1. if, in the capacity of the universal service operator, fails to obtain the Agency's prior approval for retail prices of universal services referred to in Article 35, paragraph 4 of this Act,
2. if, in the capacity of the operator with significant market power, fails to comply with the Agency's decisions referred to in Article 56, paragraphs 2 or 4 of this Act in relation to regulatory obligations referred to in Articles 58 to 64 of this Act,
3. if it fails to submit the notification referred to in Article 68, paragraph 2 of this Act or fails to comply with the Agency's decision referred to in Article 68, paragraph 6 of this Act,
4. if it fails to ensure or maintain at its own expense the function of lawful interception of electronic communications networks and services, or electronic communications lines to the operational and technical authority competent for the activation and management of the lawful interception measure in electronic communications, or fails to comply with its obligations towards this authority or authorities authorised for the implementation of lawful interception measures in electronic communications networks and services, pursuant to the provisions of Article 108, paragraphs 1, 3 or 4 of this Act.

(2) A responsible person in a legal person may also be punished for the breach referred to in paragraph 1 of this Article with a fine ranging from HRK 20,000.00 to 100,000.00.

(3) If the breach referred to in paragraph 1 of this Article is committed by a natural person, he/she shall be punished with a fine ranging from HRK 20,000.00 to 100,000.00.

(4) By way of derogation from the provisions of paragraphs 1, 2 and 3 of this Article, if the breach was committed with a view to obtaining pecuniary gain, a legal person shall be punished with a fine amounting to double the amount calculated pursuant to paragraph 1 of this Article, and a responsible person in a legal person or a natural person shall be punished with a fine ranging from HRK 40,000.00 to 200,000.00.

(5) The breach referred to in paragraph 1 of this Article may result in the imposition of a safeguard measure consisting in the prohibition of performance of activities for a period ranging from three months to one year in case of a legal person or, in case of a natural person or a responsible person in a legal person, a safeguard measure consisting in the prohibition of performance of activities, business or duties for a period ranging from three months to one year.

(6) Pecuniary gain obtained as a result of the breach shall be confiscated."

Article 115

Article 119 is amended to read:

"(1) A legal person shall be punished for a breach with a fine ranging from HRK 100,000.00 to 1,000,000.00 in the following cases:

1. if it appoints a member of the Agency's Council or the Director of the Agency who was dismissed from his duty, contrary to the provisions of Article 9, paragraph 3 of this Act,
2. if it fails to comply with the Agency's request referred to in Article 15, paragraph 1 of this Act or Article 33, paragraph 2 of this Act,
3. if it fails to comply with a decision or another administrative act of the Agency referred to in Article 18 of this Act, except in case of decisions referred to in Article 118, paragraph 1, item 2 of this Act, within the prescribed or determined time limit,
4. if it adopts a physical planning document contrary to provisions of Article 25, paragraph 3 of this Act,
5. if it fails to carry out structural separation in accordance with Article 25, paragraph 4 of this Act,
6. if it fails to ensure access to electronic communications network, electronic communications infrastructure or other associated facilities at a price which includes only real maintenance costs, or fails to provide precedence in the provision of electronic communications services, in accordance with Article 25, paragraph 6 of this Act,
7. if it fails to handle the electronic communications network, electronic communications infrastructure or associated facilities or a radio station, in compliance with the provisions of Article 25, paragraph 7 or 8 of this Act,
8. if, in the capacity of a manager of public property, or a local or regional self-government unit, or a legal person in majority ownership by the Republic of Croatia or local or regional self-government unit, it fails to comply with the principle of non-discrimination, in accordance with Article 27, paragraph 2 of this Act,

9. if, in the capacity of a manager of public property or an owner of private property, it acts contrary to the provision of Article 28, paragraph 4 of this Act,
10. if, in the capacity of an infrastructure operator, it refuses to conclude a contract with the beneficiary operator or prevents the beneficiary operator from accessing or sharing electronic communications infrastructure and other associated facilities, in accordance with the provisions of Article 30 of this Act,
11. if, in the capacity of a beneficiary operator, it uses the electronic communications infrastructure and other associated facilities of the infrastructure operator without having concluded the contract referred to in Article 30, paragraph 2 of this Act, or without the Agency's decision referred to in Article 30, paragraph 7 of this Act which fully replaces this contract,
12. if, in the capacity of an infrastructure operator, it fails to process requests from beneficiary operators in accordance with Article 30, paragraph 6 of this Act, or acts contrary to the ordinance referred to in Article 30, paragraph 9 of this Act,
13. if it provides electronic communications networks and services even after the decision referred to in Article 33, paragraphs 6 or 10 of this Act becomes final,
14. if, in the capacity of a universal services operator, it fails to fulfil the obligations referred to in Article 35, paragraph 5 of this Act,
15. if, in the capacity of a universal services operator, it fails to act in accordance with the ordinance referred to in Article 35, paragraph 7 of this Act,
16. if, in the capacity of a universal service operator, it fails to fulfil special obligations referred to in Article 37, paragraphs 1, 2 or 3 of this Act,
17. if, in the capacity of an operator of public communications services, it fails to notify the Agency of annual revenue on retail markets of these services in accordance with Article 40, paragraph 4 of this Act,
18. if it does not base or conclude subscriber's contracts in accordance with the provisions of Article 41 of this Act,
19. if fails to draw up, amend, apply, publish or deliver to the Agency its general terms and conditions, in accordance with the provisions of Article 42 of this Act,
20. if it fails to draw up, amend, apply, publish or deliver to the Agency its price lists in accordance with the provisions of Article 42.a or Article 43, paragraph 5 of this Act,
21. if it fails to ensure equal accessibility of public communications services to disabled persons, or to regularly notify them of all details of services in accordance with Article 43, paragraph 1 of this Act, or fails to deliver to the Agency, upon its request, information on undertaken measures referred to in Article 43, paragraph 2 of this Act,
22. if it fails to provide to end-users of its services adequate protection from abuse or fraud in the public communications network or fails to inform end-users of its services with such protection, in accordance with Article 43, paragraph 3 of this Act,
23. if it fails to inform the existing or new users of its services about public interest data delivered by competent public bodies, in accordance with Article 43, paragraph 7 of this Act,
24. if it fails to ensure to end-users of its services a single information centre, in accordance with Article 43, paragraph 8 of this Act,
25. if it terminates the provision of services to a subscriber or disconnects subscriber terminal equipment from the electronic communications network or fails to restart or continue providing services to the subscriber (reconnection) contrary to the provisions of Article 50, paragraphs 6, 7 or 8 of this Act,
26. if, in the capacity of an operator of public communications services, it refuses to participate in dispute resolution procedures referred to in Article 51, paragraph 1 of

- this Act or fails to cooperate with the Agency for the purpose of resolution of these disputes, in accordance with Article 51, paragraph 5 of this Act,
27. if it fails to comply with the Agency's decision referred to in Article 53, paragraph 3 of this Act,
 28. if it fails to comply with the Agency's decision referred to in Article 54, paragraph 2 of this Act, or fails to deliver to the Agency the necessary data referred to in Article 54, paragraph 7 of this Act,
 29. if, in the capacity of an operator with significant market power, it fails to deliver to the Agency the retail prices of its services in accordance with Article 63, paragraph 5 of this Act,
 30. if, in the capacity of an operator with significant market power, it fails to comply with Article 65, paragraph 1 of this Act,
 31. if it refuses to negotiate interconnection for the purpose of providing publicly available electronic communications services, in accordance with Article 66, paragraph 3 of this Act,
 32. if it handles data collected in relation to access or interconnection contrary to the provisions of Article 66, paragraph 5 of this Act,
 33. if it fails to comply with the Agency's decisions referred to in Article 66, paragraph 6 of this Act,
 34. if it fails to comply with the obligations concerning separate accounting referred to in Article 67, paragraph 1, item 1 of this Act, or structural separation of the activities referred to in Article 67, paragraph 1, item 2 of this Act,
 35. if it fails to prepare or publish financial statements or to perform annual audit in accordance with the provisions of Article 67, paragraphs 3, 4 or 5 of this Act,
 36. if it uses the assigned addresses or numbers contrary to the provisions of Article 73 of this Act,
 37. if it fails to stop using the revoked addresses or numbers within the time limit defined in the Agency's decision referred to in Article 75, paragraph 1 of this Act,
 38. if it fails to allow number portability, in accordance with the provisions of Article 76 of this Act,
 39. if it fails to allow toll free calls to the single European emergency call number 112 or to other emergency services in the Republic of Croatia, or fails to deliver, free of charge, to the competent central authority all available data on calls made to the 112 number in accordance with the provisions of Article 77, paragraphs 1 or 2 of this Act, or it fails to handle calls to the 112 number in the manner referred to in Article 77, paragraph 3 of this Act, or it fails to fulfil technical or other requirements or quality of service indicators related to calls to the 112 number established in the ordinance referred to in Article 77, paragraph 4 of this Act,
 40. if it uses the radio frequency spectrum contrary to the procedure and conditions of assignment and use defined in the Radio Frequency Allocation Table, or radio frequency assignment plans, or in the ordinance referred to in Article 82, paragraph 4 of this Act,
 41. if it fails to comply with the conditions defined in the general license referred to in Article 87 of this Act,
 42. if it fails to obtain the proper license for the use of the radio frequency spectrum referred to in Articles 88, 88.a, 89, 90, 91 or 92 of this Act, or fails to comply with the conditions laid down in these licenses,
 43. if it imports, manufactures, sells, leases or uses a device for jamming the radio frequencies of public electronic communications networks contrary to the provisions of Article 88 of this Act,

44. if it uses the radio frequency spectrum on the basis of a temporary license, contrary to the provisions of Article 91, paragraphs 2 or 3 of this Act,
45. if it transfers or leases the right to use the radio frequency spectrum, contrary to the provisions of Article 92 of this Act,
46. if it fails to stop using radio frequencies within a time limit set by the Agency's decision referred to in Article 93, paragraph 1 of this Act,
47. if it installs or uses radio stations contrary to special conditions for installation and use laid down in the ordinance referred to in Article 95, paragraph 2 of this Act,
48. if it fails to obtain the prescribed certificate of conformity of a radio station, in accordance with Article 95, paragraph 3 of this Act,
49. if it fails to undertake the prescribed measures in order to protect the security and integrity of the electronic communications network or electronic communications services, or fails to inform users of threats against network security, or fails to appoint a responsible person, or fails to inform the Agency or the public of the breach of security or loss of integrity with significant impact on network operation or provision of services, or fails to comply with the Agency's request, in accordance with the provisions of Article 99 of this Act,
50. if, in case of breach of personal data of users or other natural persons, it fails to comply with the provisions of Article 99.a of this Act,
51. if it fails to ensure the confidentiality of electronic communications and associated traffic data, in accordance with Article 100, paragraph 1 of this Act,
52. if it uses the electronic communications network for storing data or for access to stored data, contrary to the provisions of Article 100, paragraph 4 of this Act,
53. if it uses calling or communications systems, facsimile machines or electronic mail for the purposes of direct marketing or sale, or uses data about electronic mail addresses of consumers or sends electronic mail for the purposes of direct marketing or sale, contrary to the provisions of Article 107, paragraphs 1, 2 or 3 of this Act,
54. if, in the capacity of an operator providing electronic mail services, it fails to allow the filtering of incoming electronic mail, or to publish the electronic mail address for reporting abuse, or fails process complaints concerning abuse of electronic mail, or fails to undertake appropriate measures if abuse of a subscriber's electronic mail account is established in accordance with the provisions of Article 107, paragraphs 5, 6, 7 or 8 of this Act, or fails to undertake measures for the purpose of prevention or suppression of abuse or fraud in the provision of electronic mail services laid down in the ordinance referred to in Article 107, paragraph 11 of this Act,
55. if it fails to comply with the decision referred to in Article 107.a, paragraph 1 of this Act, or fails to deliver data referred to in Article 107.a, paragraph 2 of this Act, or fails to undertake measures referred to in Article 107.a, paragraph 3 of this Act,
56. if it fails to appoint a person responsible for the implementation of measures and standards of information security in accordance with Article 108, paragraph 2 of this Act, or fails to keep a list of end-users in accordance with Article 108, paragraph 6 of this Act, or fails to submit that list to competent authorities in accordance with Article 108, paragraph 5 of this Act, or fails to deliver traffic data in their original form in accordance with Article 108, paragraph 7 of this Act, or fails to act upon the request of competent authorities referred to in Article 108, paragraph 8 of this Act,
57. if it fails to retain data on electronic communications, or fails to store or deliver the retained data, or fails to apply the principles of security of retained data, or fails to ensure, at its own expense, the necessary technical or organisational measures, or fails to deliver to the Agency the information in accordance with the provisions of Article 109 of this Act,

58. if it fails to retain certain categories of data in accordance with the provisions of Article 110 of this Act, or retains data revealing the contents of the communication,
59. if, in the capacity of a person subject to the inspection, during inspection, it fails to allow an inspector to enter or inspect business premises, buildings, facilities, construction sites or land where inspection is performed, or fails to allow the inspection of electronic communications infrastructure or associated facilities, radio stations, R&TT equipment, electronic communications networks or other electronic communications equipment subject to the inspection, or fails to ensure the examination of requested documentation, identification documents and data in order to establish facts in the course of inspection or within the time limit set in the minutes of inspection, or fails to deliver for inspection, upon the inspector's written request and within a certain time limit, all data or documents necessary for inspection, or fails to inform within a specified time limit of the undertaken measures ordered by the inspector for the purpose of eliminating the established irregularities, deficiencies or oversights, or it fails to carry out the actions referred to in Article 115, paragraphs 2 or 3 of this Act,
60. if it fails to act in compliance with the provisions of the relevant European Union regulations on regulating the retail and/or wholesale prices of international roaming in public mobile communications networks.

(2) A responsible person in a legal person may also be punished for the breach referred to in paragraph 1 of this Article with a fine ranging from HRK 20,000.00 to 100,000.00.

(3) If the breach referred to in paragraph 1 of this Article is committed by a natural person, he/she shall be punished with a fine ranging from HRK 10,000.00 to 50,000.00.

(4) By way of derogation from the provisions of paragraphs 2 and 3 of this Article, if the breach was committed with a view to obtaining pecuniary gain, a responsible person in a legal person shall be punished with a fine ranging from HRK 40,000.00 to 200,000.00, and a natural person with a fine ranging from HRK 20,000.00 to 100,000.00.

(5) The breach referred to in paragraph 1 of this Article may result in the imposition of a safeguard measure consisting in the prohibition of performance of activities for a period ranging from three months to one year in case of a legal person or, in case of a natural person or a responsible person in a legal person, a safeguard measure consisting in the prohibition of performance of activities, business or duties for a period ranging from one month to six months.

(6) The breach referred to in paragraph 1 of this Article may result in the imposition of a safeguard measure consisting in the confiscation of a radio station, R&TT equipment or another electronic communications equipment, and the breach referred to in paragraph 1, item 53 of this Article may result in the imposition of a safeguard measure consisting in the confiscation of a computer and/or another technical equipment.

(7) Pecuniary gain obtained as a result of the breach shall be confiscated."

Article 116

Article 120 is amended to read:

"(1) A legal person shall be punished for a breach with a fine ranging from HRK 50,000.00 to 500,000.00 in the following cases:

1. if it fails to plan, design, produce, build, install, mount, maintain or use electronic communications network or electronic communications infrastructure and associated facilities in accordance with the provisions of Article 24, paragraphs 4 or 5 of this Act,
2. if it fails to provide access to all operators in accordance with Article 24, paragraph 6 of this Act,
3. if, within 60 days from the date of establishment of interference, it fails to ensure at its own expense the reception of radio or television programmes of radio or television broadcasters, in accordance with Article 24, paragraph 7 of this Act,
4. if it fails to comply with the provisions of the ordinances referred to in Article 24, paragraph 8 of this Act laying down in more detail the technical, usage and other conditions for certain types of electronic communications networks, electronic communications infrastructure and other associated facilities,
5. if it fails to build, install or use electronic communications network or provide electronic communications services in accordance with the conditions referred to in Article 25, paragraph 1 of this Act,
6. if it carries out works or constructs new buildings, or installs electronic communications infrastructure or associated facilities, or plants in the zone of electronic communications infrastructure and other associated facilities, or in the protection zone or a radio corridor of certain radio stations, contrary to the provisions of Article 26, paragraphs 1 or 2 of this Act,
7. if it plants crops under surface electronic communications lines and above underground electronic communications lines or in their immediate vicinity, that is, in the protection zone or the radio corridor of certain radio stations, contrary to the provision of Article 26, paragraph 3 of this Act,
8. if it fails to ensure, at its own expense, the protection or relocation of electronic communications infrastructure or other associated facilities, in accordance with Article 26, paragraph 4 of this Act,
9. if it fails to provide electronic communications networks and services in accordance with the provisions of the ordinance referred to in Article 34 of this Act,
10. if it fails to allow to end-users of its services the verification and control of data on charges for provided services, or fails to allow to its subscribers, upon their request, itemised billing for provided services in accordance with the provisions of Article 44 of this Act,
11. if it fails to allow to end-users of its services the barring of outgoing public communications services in accordance with the provisions of Article 45, paragraph 1 of this Act, or the barring of outgoing calls, or the barring of sending or receiving of SMS and MMS messages in accordance with the provisions of Article 45, paragraph 2 of this Act,
12. if it fails to allow to its subscribers the barring of automatic call forwarding in accordance with Article 46 of this Act,
13. if it fails to organise or update a public directory of its subscribers, or fails to handle personal data of end-users, or fails to deliver data on end-users to providers of directory enquiry services or to persons publishing public directories of subscribers, or fails to satisfy the reasonable requests of these providers, persons or end-users for the delivery of data on subscribers, in accordance with the provisions of Article 47 of this Act,

14. if it carries out the procedure of temporary disconnection or permanent disconnection of subscriber's terminal equipment, contrary to the provisions of Article 48 of this Act,
15. if, in the capacity of an operator of special tariff services, it provides false or misleading information, or withholds important information, or fails to advertise its services, or fails to comply with the obligations referred to in Article 49, paragraph 2 of this Act,
16. if, in the capacity of an operator of special tariff services, it fails to handle calls towards a special tariff service or special tariff SMS messages and MMS messages in accordance with Article 49, paragraphs 3 or 4 of this Act,
17. if, in the capacity of an operator of public communications services, it fails to handle end-users' complaints in accordance with Article 49, paragraph 6 of this Act,
18. if it uses access codes for Internet dialler software, contrary to Article 49, paragraph 7 of this Act,
19. if it enables call switching to Internet dialler software, contrary to Article 49, paragraph 8 of this Act,
20. if it transfers the rights to use addresses or numbers, contrary to the provisions of Article 74 of this Act,
21. if it fails to support the international access code "00" in accordance with Article 78, paragraph 1 of this Act, or fails to allow access to numbers, or access to the directory enquiry services, or making calls to numbers in the European Telephony Numbering Space (ETNS) in accordance with Article 78, paragraph 2 of this Act, or fails to allow access to numbers or services in case of justified suspicion of abuse or fraud in accordance with Article 78, paragraph 3 of this Act, or fails to ensure access for users from other countries to non-geographic numbers in the Republic of Croatia, in accordance with Article 78, paragraph 4 of this Act,
22. if it fails to allow the establishment of calls to numbers in the 116 range in accordance with the provisions of Article 78.a, paragraphs 1 or 2 of this Act,
23. if it performs amateur radio communications, contrary to the provisions of the ordinance referred to in Article 82.a, paragraph 5 of this Act,
24. if it transfers the license for use of the radio frequency spectrum, contrary to the provisions of Article 92 of this Act,
25. if it fails to carry out measuring, testing or establishing of the cause of interference or fails to undertake measures for their elimination, in accordance with Article 94, paragraph 3 of this Act,
26. if it carries out the activities referred to in Article 94.a, paragraph 1 of this Act without a prescribed special authorisation referred to in Article 94.a, paragraph 1 of this Act,
27. if it fails to comply with the obligations concerning the transmission of digital radio or television signals in accordance with the provisions of Article 96 of this Act,
28. if it fails to comply with the must-carry obligation concerning radio or television programmes in the Republic of Croatia referred to in Article 97, paragraph 1 of this Act,
29. if, in the capacity of an operator of conditional access services, it fails to comply with the obligations in accordance with the provisions of Article 98 of this Act,
30. if, in the capacity of the holder of intellectual property rights, it acts in relation to conditional access devices or systems contrary to the provisions of Article 98, paragraph 5 of this Act,
31. if it breaches the provisions concerning confidentiality of radio communications referred to in Article 101, paragraph 1 of this Act,

32. if it fails to act upon, or to process traffic data, or fails to inform subscribers or users on the processing of traffic data, or fails to ensure access to the processing of traffic data in accordance with the provisions of Article 102 of this Act,
33. if it fails to allow the prevention of presentation of calling line identification or a number related with it, or the rejecting of incoming calls in case of the prevention of presentation of the calling line identification, in accordance with the provisions of Article 103 of this Act,
34. if it fails to act or process location data other than traffic data, or fails to inform subscribers or users on the processing of such data, in accordance with the provisions of Article 104 of this Act,
35. if, in the capacity of a caller or sender of SMS messages and MMS messages, it falsely represents itself in public communications network,
36. if it fails to record, store or retain data on malicious or nuisance calls, or SMS messages or MMS messages, or fails to deliver these data to the competent police administration, or fails to cooperate with other operators, in accordance with the provisions of Article 105 of this Act,
37. if it fails to make impossible the prevention of presentation of calling line identification, or temporary rejection or lack of subscriber's or user's consent to process location data other than traffic data, in accordance with Article 106, paragraph 1 of this Act.

(2) A responsible person in a legal person may also be punished for the breach referred to in paragraph 1 of this Article with a fine ranging from HRK 5,000.00 to 50,000.00.

(3) If the breach referred to in paragraph 1 of this Article is committed by a natural person, he/she shall be punished with a fine ranging from HRK 2,000.00 to 20,000.00.

(4) By way of derogation from the provisions of paragraphs 2 and 3 of this Article, if the breach was committed with a view to obtaining pecuniary gain, a responsible person in a legal person shall be punished with a fine ranging from HRK 10,000.00 to 100,000.00, and a natural person with a fine ranging from HRK 4,000.00 to 40,000.00.

(5) The breach referred to in paragraph 1 of this Article may result in the imposition of a safeguard measure consisting in the confiscation of a radio station, R&TT equipment or another electronic communications equipment.

(6) Pecuniary gain obtained as a result of the breach shall be confiscated."

Article 117

Article 121 is amended to read:

"(1) A legal person shall be punished for a breach with a fine ranging from HRK 20,000.00 to 100,000.00 in the following cases:

1. if, in the capacity of an infrastructure operator, it fails to deliver to the Agency a written notification, in accordance with Article 25, paragraph 5 of this Act,
2. if it fails to deliver to the Agency a prior written notification or the change of data in that notification, in accordance with the provisions of Article 32 of this Act,

3. if, in the capacity of a universal services operator, it fails to publish or regularly deliver to the Agency information and data on conditions for the provision of universal services, in accordance with Article 35, paragraph 6 of this Act,
4. if it fails to inform the subscribers of public communications services in accordance with Article 41, paragraph 7 of this Act,
5. if it fails to inform the public on the possibilities for the prevention of presentation of calling line identification or a related line identification, or for the rejection of incoming calls in case of the prevention of presentation of calling line identification, in accordance with Article 103, paragraph 6 of this Act.

(2) A responsible person in a legal person may also be punished for the breach referred to in paragraph 1 of this Article with a fine ranging from HRK 2,000.00 to 20,000.00

(3) If the breach referred to in paragraph 1 of this Article is committed by a natural person, he/she shall be punished with a fine ranging from HRK 1,000.00 to 10,000.00.

(4) A natural person shall be punished for a breach with a fine ranging from HRK 1,000.00 to 10,000.00 in case of abuse of calls to the 112 number referred to in Article 77, paragraph 5 of this Act."

TRANSITIONAL AND FINAL PROVISIONS

Article 118

(1) A legal or a natural person providing electronic communications networks and services on the date of entry into force of this Act on the basis of general authorisation, is obliged to align the performance of its activities with the provisions of this Act within 90 days from the date of entry into force of this Act.

(2) In case of amendments to general terms and conditions with a view to fulfilling the obligation referred to in paragraph 1 of this Article, the provisions of this Act on the right to terminate the subscriber's contract without the payment of contractual obligations shall not apply.

(3) The regulation of the Government of the Republic of Croatia referred to in Article 25 of this Act shall apply until the alignment of physical planning documents with the provisions of this Act.

(4) The Agency shall, within the period of two years from the date of accession of the Republic of Croatia to the European Union, carry out the procedure of relevant market analysis referred to in Article 53 of this Act.

(5) The Agency shall, *ex officio*, align the conditions for the assignment and use of the radio frequency spectrum provided for in licenses for use of the radio frequency spectrum, which were granted on the basis of legislation in force until the entry into force of this Act, and, where necessary, grant new licenses for use of the radio frequency spectrum in accordance with the provisions of this Act until the date of accession of the Republic of Croatia to the European Union.

(6) The Agency shall review the must-carry obligations referred to in Article 94 of this Act until the date of accession of the Republic of Croatia to the European Union.

Article 119

(1) The Minister shall, within 30 days from the date of entry into force of this Act, adopt a legal act specifying which facilities and equipment used by the Ministry shall become the Agency's property.

(2) The Minister shall, together with the Chairman of the Agency's Council, lay down in the act referred to in paragraph 1 of this Article which employees of the Ministry, whose job description falls under the competence of the Agency pursuant to the provisions of this Act, shall become the Agency's employees within 60 days from the date of entry into force of this Act.

(3) The Agency's Council shall adopt the by-law referred to in Article 107 of this Act within the time limit referred to in paragraph 2 of this Article.

(4) On the date of entry into force of this Act, electronic communications inspectors and electronic communications supervisors shall continue with the performance of their tasks in progress at the moment of entry into force of this Act, and shall keep all civil service rights, or employment rights, until the conclusion of employment contracts in accordance with the Agency's bylaw referred to in paragraph 3 of this Article.

(5) Until the Agency starts carrying out tasks within its competence in accordance with the provisions of this Act, the inspection tasks referred to in the Electronic Communications Act (Official Gazette No. 73/08) shall be carried out by the Ministry.

(6) Inspection and expert supervision procedures initiated pursuant to the provisions of the Electronic Communications Act (Official Gazette No. 73/08) until the date of entry into force of this Act, shall be completed pursuant to the provisions of that Act.

Article 120

Pending the beginning of operations of the High Administrative Court of the Republic of Croatia, administrative disputes referred to in Articles 17 and 112 of this Act shall be initiated before the Administrative Court of the Republic of Croatia.

Article 121

(1) The Agency's Council shall, within 30 days from the date of entry into force of this Act, align the Agency's Statute with the provisions of this Act and submit it to the Government of the Republic of Croatia for its prior consent.

(2) The Agency's Council shall align other Agency's bylaws with the provisions of this Act and the Agency's Statute within 30 days from the date of entry into force of the Agency's Statute referred to in paragraph 1 of this Article.

Article 122

(1) The Government of the Republic of Croatia shall adopt the regulation referred to in Article 25 of this Act within six months from the date of entry into force of this Act

(2) The Minister and the Agency's Council shall adopt secondary legislation they are authorised to adopt pursuant to this Act within one year from the date of entry into force of this Act.

(3) Secondary legislation adopted pursuant to the Electronic Communications Act (Official Gazette No. 73/08) shall remain in force until the entry into force of secondary legislation referred to in paragraphs 1 and 2 of this Article, to the extent to which they are not contrary to the provisions of this Act.

Article 123

The following shall cease to be valid on the date of entry into force of this Act:

- Ordinance on public telecommunications in fixed network (Official Gazette Nos. 58/95 and 85/01),
- Ordinance on technical requirements and conditions of use of radio stations for broadcasting television programmes in the frequency bands I, III and IV/V (Official Gazette No. 66/96),
- Ordinance on technical requirements and conditions of use of radio frequency converters for the transmission of television programmes in the frequency bands I, III and IV/V (Official Gazette No. 88/96),
- Ordinance on technical requirements and conditions of use for facilities and technical equipment of cable television (Official Gazette Nos. 83/95 and 29/97).

Article 124

The Legislation Committee of the Croatian Parliament shall be authorised to establish and publish the consolidated text of the Electronic Communications Act.

Article 125

This Act shall enter into force on the eight day following its publication in the Official Gazette, except for the provisions of Article 5, paragraph 8 amended by Article 5 of this Act, Article 15, paragraphs 5 and 6 amended by Article 14 of this Act, Articles 20 and 22 of this Act, Article 32, paragraph 11 amended by Article 32 of this Act, Article 34, paragraph 4 amended by Article 34 of this Act, Article 36, paragraph 9, amended by Article 36 of this Act, Article 47, paragraph 8, second sentence amended by Article 48 of this Act, Article 52, paragraphs 3 and 4 amended by Article 53 of this Act, Article 56, paragraph 5 amended by Article 57 of this Act, Articles 58 and 63 of this Act, Article 78, paragraph 2 amended by Article 72 of this Act, Article 73 of this Act, Article 99, paragraphs 4 to 10 amended by Article 95 of this Act, Articles 96 to 102 of this Act and Article 119, paragraph 1, item 60

amended by Article 115 of this Act, which shall enter into force on the date of accession of the Republic of Croatia to the European Union.

Class: 344-03/11-01/01
Done at Zagreb, 15 July 2011

CROATIAN PARLIAMENT
The President of the Croatian Parliament
Luka Bebić, m.p.