

## **ELECTRONIC COMMUNICATIONS ACT**

Promulgated, SG No. 41/22.05.2007, amended and supplemented, SG No. 109/20.12.2007, effective 1.01.2008, amended, SG No. 36/4.04.2008, amended and supplemented, SG No. 43/29.04.2008, amended, SG No. 69/5.08.2008, amended and supplemented, SG No. 17/6.03.2009, SG No. 35/12.05.2009, effective 12.05.2009, SG No. 37/19.05.2009, effective 19.05.2009, SG No. 42/5.06.2009; Decision No. 3 of the Constitutional Court of the Republic of Bulgaria of 4.06.2009 - SG No. 45/16.06.2009; amended, SG No. 82/16.10.2009, effective 16.10.2009, SG No. 89/10.11.2009, effective 10.11.2009, amended and supplemented, SG No. 93/24.11.2009, SG No. 12/12.02.2010, SG No. 17/2.03.2010, effective 10.05.2010, SG No. 27/9.04.2010, effective 9.04.2010, amended, SG No. 97/10.12.2010, effective 10.12.2010, amended and supplemented, SG No. 105/29.12.2011, effective 29.12.2011, SG No. 38/18.05.2012, effective 1.07.2012, amended, SG No. 44/12.06.2012, effective 1.07.2012, SG No. 82/26.10.2012, effective 26.11.2012, SG No. 15/15.02.2013, effective 1.01.2014, supplemented, SG No. 27/15.03.2013, SG No. 28/19.03.2013, amended, SG No. 52/14.06.2013, effective 14.06.2013, SG No. 66/26.07.2013, effective 26.07.2013, SG No. 70/9.08.2013, effective 9.08.2013, supplemented, SG No. 11/7.02.2014, effective 7.02.2014, amended, SG No. 53/27.06.2014, SG No. 61/25.07.2014, effective 25.07.2014, SG No. 98/28.11.2014, effective 28.11.2014, SG No. 14/20.02.2015; Judgment No. 2/12.03.2015 of the Constitutional Court of the Republic of Bulgaria - SG No. 23/27.03.2015; amended and supplemented, SG No. 24/31.03.2015, effective 31.03.2015, SG No. 29/21.04.2015, amended, SG No. 61/11.08.2015, effective 1.11.2015, SG No. 79/13.10.2015, effective 1.11.2015, SG No. 50/1.07.2016, effective 1.07.2016, SG No. 95/29.11.2016, amended and supplemented, SG No. 97/6.12.2016, effective 6.12.2016, SG No. 103/27.12.2016, amended, SG No. 58/18.07.2017, effective 18.07.2017, SG No. 85/24.10.2017, amended and supplemented, SG No. 101/19.12.2017, effective 19.12.2017, SG No. 7/19.01.2018, SG No. 21/9.03.2018, effective 9.03.2018, supplemented, SG No. 28/29.03.2018, effective 29.03.2018, amended, SG No. 77/18.09.2018, effective 1.01.2019, supplemented, SG No. 94/13.11.2018, amended and supplemented, SG No. 17/26.02.2019, SG No. 47/14.06.2019, SG No. 74/20.09.2019, SG No. 94/29.11.2019, effective 29.11.2019, amended, SG No. 100/20.12.2019, effective 1.01.2020, supplemented, SG No. 28/24.03.2020, effective 24.03.2020, amended and supplemented, SG No. 51/5.06.2020, supplemented, SG No. 62/14.07.2020, amended, SG No. 69/4.08.2020; Decision No. 15/17.11.2020 of the Constitutional Court of the Republic of Bulgaria - SG No. 101/27.11.2020; amended and supplemented, SG No. 105/11.12.2020, effective 1.01.2021, SG No. 20/9.03.2021, SG No. 15/22.02.2022, effective 22.02.2022, amended, SG No. 32/26.04.2022, effective 28.07.2022

### **Chapter One** **GENERAL DISPOSITIONS**

**Article 1.** (1) This Act regulates the social relations pertaining to the implementation of electronic communications.

(2) Electronic communications shall be implemented by conveyance, emission, transmission or reception of signs, signals, written text, image, sound or message of any nature by wire, radio waves, optical or other electromagnetic medium.

**Article 2.** This Act shall not apply in respect of the content of the electronic messages conveyed.

**Article 3.** This Act shall not apply upon implementation of electronic communications:

1. (supplemented, SG No. 109/2007, amended, SG No. 79/2015, effective 1.11.2015, SG No. 20/2021) by the Ministry of Defence, by the Ministry of Interior, by the State Agency for National Security, by the National Bodyguard Service, by the State Intelligence Agency and by the State Agency Technical Operations, as well as in respect of the internal radio-frequency allocation and the determination of the call signs for the service radio communications of the said ministries and services;

2. (amended, SG No. 89/2009, effective 10.11.2009) by the state bodies and the administrations thereof in connection with national security;
3. (new, SG No. 20/2021) by the state bodies and the local government authorities and their administrations, the state enterprises, the centers for emergency medical aid, the state and municipal medical treatment facilities, the strategic sites of importance to the national security and the voluntary formations under the Disaster Protection Act in the cases where they are included in the National Single Communications System for interaction between the government structures of the Republic of Bulgaria in protection of public order, counteraction to crime and protection of the population in case of disasters and accidents.

## **Chapter Two**

### **PURPOSES AND PRINCIPLES**

**Article 4.** (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) This Act has the objectives:

1. to create the necessary conditions for the development of competition in the provision of electronic communications networks and related facilities, including effective competition in terms of infrastructure, as well as in the provision of electronic communications services and related services;
  2. to create the necessary conditions for the development of connectivity and access to very high capacity networks, including fixed, mobile and wireless networks, as well as the use of the latter by all citizens and business entities;
  3. to contribute to the internal market development, by means of:
    - (a) removing the remaining barriers and facilitating the harmonized conditions for investment and provision of electronic communications networks and services, the related facilities and services;
    - (b) establishing common rules and predictable regulatory approaches;
    - (c) promoting the efficient, effective and coordinated use of spectrum, open innovation, the construction and development of pan-European networks, the provision, accessibility and interoperability of pan-European services and end-to-end connectivity, and ensuring connectivity, wide availability and take-up of very high capacity networks;
  4. to protect the interests of citizens by:
    - (a) ensuring the connectivity, accessibility and use of very high capacity networks, including fixed, mobile and wireless networks, as well as electronic communications services;
    - (b) providing the opportunity for maximum benefits in terms of choice, price and quality based on effective competition;
    - (c) ensuring the security maintenance of networks and services;
    - (d) ensuring a high and general level of protection for end-users through the necessary rules, including conditions for the provision of clear information, by setting requirements for transparency of tariffs and conditions for the use of public electronic communications services and the use of applications and services of end-users' choice;
    - (e) taking into account the needs of specific social groups, in particular persons with disabilities, elderly persons and persons with special social needs, as well as the choice and equal access for persons with disabilities.
- (2) The electronic communications' management and regulation bodies shall take all justified measures to attain the purposes under Paragraph (1) in an extent and within time limits proportionate to the relevant purpose, whereby:
1. take the utmost account of the need for technological neutrality;
  2. promote regulatory predictability by means of:
    - (a) ensuring a consistent regulatory approach with appropriate review deadlines, and
    - (b) cooperation between the Member States of the European Union, the Body of European Regulators for Electronic Communications, the Radio Spectrum Policy Group and the European Commission;
  3. implementing policies aimed at promoting freedom of expression and freedom of information, cultural and linguistic diversity and media pluralism;

4. ensuring that, in similar circumstances, there is no discrimination in the treatment of providers of electronic communications networks and services;
5. promoting efficient investment and innovation in new and enhanced infrastructure, including by ensuring that any obligation to grant access takes due account of the risk incurred by the investing undertakings and, by permitting the various cooperative arrangements between investors and parties seeking access to diversify the investment risk, while ensuring that competition is maintained in the market and that the principle of non-discrimination is respected;
6. taking due account of the variety of conditions relating to infrastructure, competition, the circumstances of end-users and in particular consumers in different geographical areas, including local infrastructure managed by non-profit natural persons;
7. imposing ex ante regulatory obligations only to the extent necessary to ensure effective and sustainable competition in the interests of end-users, and alleviate or abolish those obligations as soon as this condition is met.

**Article 4a.** (New, SG No. 20/2021) In carrying out the activities related to strategic planning and coordination of the policy in the field of the radio frequency spectrum, the state bodies shall:

1. cooperate with the relevant authorities of the Member States of the European Union and with the European Commission in the strategic planning, coordination and harmonization of the use of radio spectrum in accordance with the policies of the European Union for the establishment and functioning of the internal market in the electronic communications sector, also taking into account the economic aspects, relating to safety, health, public interest, freedom of expression, the cultural, scientific, social and technical aspects of the European Union policies, as well as the diverse interests of spectrum user groups with a view to optimizing spectrum use and avoiding harmful interference;
2. encouraging the coordination of radio spectrum policy approaches in the European Union and, if necessary, the harmonized conditions relating to the availability and efficient use of radio spectrum necessary for the establishment and functioning of the internal market in the electronic communications sector;
3. cooperating with the relevant authorities of the Member States of the European Union and the European Commission in the framework of the Radio Spectrum Policy Group and, if necessary, with the European Parliament and the Council of the European Union, with a view to supporting strategic planning and coordinating the radio spectrum policy approach, such as:
  - (a) develop good practices on spectrum issues;
  - b) facilitating the coordination with the other Member States of the European Union with a view to implementing the provisions of European Union law and contribute to the development of the internal market;
  - (c) coordinating the approaches for the provision of radio frequency spectrum, authorizing the use thereof and publish reports or opinions on radio frequency spectrum issues.

**Article 5.** (Amended, SG No. 20/2021) In applying this Act, the state bodies shall respect the principles of legal status, predictability, transparency, public openness, consultation, equal treatment, proportionality, technological neutrality of networks and, minimization the regulatory intervention.

**Article 5a.** (New, SG No. 20/2021) (1) In exercising their powers, the state bodies should not restrict end-users' access to or use of services and applications through electronic communications networks in ways that restrict the exercise of the rights or freedoms recognized by the Charter of Fundamental Rights of the European Union. Union and the principles of European Union law.

(2) Exceptions to the principle set out in Paragraph (1) shall be admissible subject to the following requirements:

1. restrictions shall be imposed only if provided for by law and respect the rights or freedoms recognized by the Charter of Fundamental Rights of the European Union, including the right to an effective remedy and a fair trial;

2. the imposition of such restrictions shall respect the principle of the presumption of innocence and the right to privacy and shall ensure a prior, fair and impartial procedure, including the right to be heard of the person or persons concerned, while respecting the need for appropriate conditions and rules of procedure in duly justified emergencies in accordance with the Charter of Fundamental Rights of the European Union.

### **Chapter Three**

## **STATE MANAGEMENT OF ELECTRONIC COMMUNICATIONS**

### **Section I**

#### **General Provisions**

**Article 6.** The State management of electronic communications shall be implemented by the Council of Ministers, by the National Radio Spectrum Council, and by the Minister of Transport, Information Technology and Communications.

**Article 7.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) Acting on a motion by the Minister of Transport, Information Technology and Communications, the Council of Ministers shall adopt an Electronic Communications Policy and shall promulgate the said policy in the State Gazette.

(2) (Amended, SG No. 105/2011, effective 29.12.2011) The draft referred to in Paragraph (1) shall be presented for public consultation according to the procedure established by Article 18 herein.

(3) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The policy in the field of electronic communications is updated in the event of significant changes in the law of the European Union in this field, as well as in case of necessity arising from changes in the public relations related to the implementation of electronic communications.

**Article 8.** (1) Acting on a motion by the National Radio Spectrum Council, the Council of Ministers shall adopt a Radio Spectrum Planning and Allocation Policy and shall promulgate the said policy in the State Gazette.

(2) Acting on a motion by the National Radio Spectrum Council, the Council of Ministers shall adopt a National Radio Spectrum Allocation Plan and shall promulgate the said plan in the State Gazette.

(3) (Repealed, SG No. 105/2011, effective 29.12.2011).

### **Section II**

#### **National Radio Spectrum Council**

**Article 9.** (1) (Amended, SG No. 20/2021) The National Radio Spectrum Council hereinafter referred to as "the Council" is an advisory and coordinating body to the Council of Ministers, which drafts and submits for adoption by the Council of Ministers a State Policy for Radio Spectrum Planning and Allocation and implements the said policy.

(2) The draft of a State Policy referred to in Paragraph (1) shall be presented for public consultation under Article 18 herein.

**Article 10.** (1) (Supplemented, SG No. 109/2007, SG No. 17/2009, amended, SG No. 82/2009, effective 16.10.2009, SG No. 89/2009, effective 10.11.2009, SG No. 14/2015, SG No. 79/2015, effective 1.11.2015, SG No. 20/2021, SG No. 15/2022, effective 22.02.2022) The Council shall include, as members, representatives of the Ministry of Economy the Ministry of Transport and Communications, the Ministry of Defence, the Ministry of Interior, the State Agency for National Security, the Communications Regulation Commission, the National Bodyguard Service, the State Intelligence Agency and the State Agency for Technical Operations.

(2) (Amended, SG No. 89/2009, effective 10.11.2009, SG No. 20/2021, SG No. 15/2022, effective 22.02.2022) The Council shall be chaired by the Minister of Transport and Communications or a person empowered thereby. The state bodies and services covered under Paragraph (1) shall designate the representatives thereof and shall ensure their participation in the work of the Council. The Chairperson of the Council shall designate one of the representatives of the Ministry of Transport and Communications as an Organizing Secretary of the Council.

(3) Acting on a motion by the Chairperson of the Council, the Council of Ministers shall adopt Rules of Operation of the Council.

(4) (Amended, SG No. 89/2009, effective 10.11.2009, SG No. 15/2022, effective 22.02.2022) The administrative support to the Council shall be provided by the administration of the Ministry of Transport and Communications.

**Article 11.** (1) The Council shall prepare a draft of a National Radio Spectrum Allocation Plan.

(2) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011) The plan referred to in Paragraph (1) shall be drafted and updated in accordance with the policy of the European Union, the documents of the international organizations, as well as on motions by the central-government departments and services concerned, for the purpose of harmonized and efficient use of the radio spectrum.

(3) By the plan referred to in Paragraph (1), the radio spectrum shall be allocated into radio frequencies, radio frequency bands and radio services for civilian needs, for the needs of the state bodies and services covered under Article 3 herein in connection with national security, and for shared use between the said bodies and services.

(4) The allocation of the radio spectrum into radio frequencies, radio frequency bands and radio services shall be carried out in accordance with the principles of radio spectrum allocation and use in the European Union and by the International Telecommunication Union.

(5) The specific allocation of radio frequencies and radio frequency bands, assigned for civilian needs or for shared use for civilian needs and for the needs of the state bodies and services covered under Paragraph (3) in connection with national security, shall be carried out after conduct of a public consultation under Article 18 herein, in the part concerning civilian needs.

(6) Within seven days after expiry of the time limit for public consultation, the Minister of Transport, Information Technology and Communications shall transmit the draft as consulted and the opinions as submitted to the National Radio Frequency Council. The Council shall examine the opinions and shall post the opinions as submitted, as well as the reasoning of the accepted and rejected proposals, on the Internet site of the Ministry of Transport, Information Technology and Communications. After an examination of the opinions, the Council shall propose to the Council of Ministers to adopt a decision.

(7) (New, SG No. 17/2009) The Council shall consider and decide matters related to electromagnetic compatibility, and should the members thereof disagree, the matters shall be referred to the Council of Ministers, which shall make a decision.

**Article 12.** The state bodies and services covered under Article 10 (1) herein shall interact for implementation of the activity of the Council in accordance with the Rules referred to in Article 10 (3) herein.

**Article 13.** (1) (Supplemented, SG No. 20/2021) After clearance with the state bodies and services concerned, the Council shall adopt a decision for use for short-term events of particular radio frequencies and radio frequency bands by radio equipment and the technical parameters thereof, the period and place of use of the said frequencies and bands within the territory of the Republic of Bulgaria by foreign States on a basis of reciprocity, as well as by international organizations, where this arises from international obligations undertaken by the Republic of Bulgaria.

(2) (Supplemented, SG No. 20/2021) The requests under Paragraph (1) for use of radio frequencies and radio frequency bands by embassies of foreign States and/or by missions of international organisations shall be submitted to the Council, which shall pronounce on such requests within one month after receipt thereof.

(3) (New, SG No. 20/2021) The Council shall adopt a decision on the use of radio frequencies and radio frequency bands from the radio frequency spectrum designated for national security, for radio equipment of foreign neighbouring countries for the purposes of cross-border control and cooperation on the basis of reciprocity when this arises from international obligations undertaken by the Republic of Bulgaria.

(4) (Renumbered from Paragraph (3), amended, SG No. 20/2021) Outside the cases under Paragraph (1) and Paragraph (3), when it is necessary to issue an authorisation for the use of radio frequency spectrum for electronic communications under this Act, the embassies of foreign countries or the representations of international organizations shall submit an application for the use of radio frequency spectrum to the Communications Regulation Commission, which:

1. shall grant the relevant authorization;
2. shall collect the fees as fixed, unless otherwise provided for in an international instrument.

**Article 14.** (Supplemented, SG No. 35/2009, effective 12.05.2009) The Minister of Defence or an official empowered thereby shall authorize the use of radio frequencies and radio frequency bands by the Member States of NATO upon conduct of joint exercises and operations within the territory of the Republic of Bulgaria in accordance with the allocation of radio frequencies and radio frequency bands for the needs of the Ministry of Defence in the National Radio Spectrum Allocation Plan.

### **Section III**

#### **Minister of Transport and Communications**

**(Heading amended, SG No. 89/2009, effective 10.11.2009, SG No. 15/2022, effective 22.02.2022)**

**Article 15.** (Amended, SG No. 89/2009, effective 10.11.2009, SG No. 15/2022, effective 22.02.2022) The Minister of Transport and Communications shall be a specialized executive authority who conducts the state policy in the sphere of electronic communications.

**Article 16.** (Amended, SG No. 15/2022, effective 22.02.2022) The Minister of Transport and Communications:

1. (amended, SG No. 105/2011, effective 29.12.2011, SG No. 15/2022, effective 22.02.2022) prepare and lay before the Council of Ministers for adoption electronic communications, strategies, plans and programmes;
2. draft and issue or lay before the Council for Ministers for adoption statutory instruments of secondary legislation related to the implementation of the powers of the said Minister as provided for in this Act;
3. create conditions to ensure the freedom and confidentiality of communications;
4. (amended, SG No. 15/2022, effective 22.02.2022) represent the Republic of Bulgaria in the international organizations in electronic communications;
5. (amended, SG No. 105/2011, effective 29.12.2011, SG No. 15/2022, effective 22.02.2022) assist the development and implementation of standards and standardization deliverables related to electronic communications;
6. (amended, SG No. 15/2022, effective 22.02.2022) ensure the honouring of the commitments of the Republic of Bulgaria in the electronic communications related to the membership of the Republic of Bulgaria in the European Union and in international organizations;
7. (new, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) participate in the preparation and coordination of the policy of the European Union in the field of scarce resources in connection with the provision and efficient use necessary for the creation and functioning of the internal market of the European Union in the electronic communications sector and ensuring interoperability of services;
8. (renumbered from Item 7, SG No. 105/2011, effective 29.12.2011, amended, SG No. 15/2022, effective 22.02.2022) participate in the activity of the international standardization organizations and in the technical standardization committees in the Republic of Bulgaria relevant to electronic communications;
9. (renumbered from Item 8, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) perform the international coordination and registration of radio frequencies and radio frequency bands, as well as of radio equipment which uses such frequencies and bands, for the radio services: the aeronautical mobile radio service, aeronautical mobile-satellite radio service, aeronautical radio navigation service, aeronautical radio navigation-satellite service, maritime mobile radio service,

maritime mobile-satellite radio service, maritime radio navigation service and maritime radio navigation-satellite service;

10. (renumbered from Item 9, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) perform international coordination and registration of radio frequencies and radio frequency bands for all radio services, as well as of the technical characteristics of the radio equipment using such frequencies and bands for the needs of national security after coordination with the interested state body or service under Item 1 of Article 3;

11. (renumbered from Item 10, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 15/2022, effective 22.02.2022) reach agreement and/or endorse investment programmes and projects in accordance with the priorities in communications;

12. (renumbered from Item 11, SG No. 105/2011, effective 29.12.2011, amended, SG No. 15/2022, effective 22.02.2022) perform inter-departmental coordination upon the drafting of drafts of statutory instruments of the Council of Ministers in electronic communications.

**Article 17.** (1) (Amended, SG No. 50/2016, effective 1.07.2016, SG No. 15/2022, effective 22.02.2022) The Minister of e-Government:

1. (supplemented, SG No. 21/2018, effective 9.03.2018) establish, operate, maintain and develop an electronic communications network and physical infrastructure for the deployment thereof and control points in connection with national security, which shall be serviced by personnel occupying specific positions;

2. (amended, SG No. 35/2009, effective 12.05.2009, SG No. 94/2019, effective 29.11.2019, SG No. 20/2021) ensure electronic communications for governance in cases of disasters under the Disaster Protection Act, upon declaration of a martial law, a state of emergency under the Law on Defence and Armed Forces of the Republic of Bulgaria, as well as in declaring a state of emergency under the Counter-Terrorism Act;

3. (new, SG No. 105/2011, effective 29.12.2011) use and develop the network referred to in Item 1 for the needs of State governance.

(2) (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 18.** (1) (Amended and supplemented, SG No. 20/2021) Prior to issuing or submitting to the Council of Ministers the instruments of secondary legislation provided for in this Act, the Minister of Transport, Information Technology and Communications shall publish a notice on the prepared draft, the text of the draft, the reasons and the preliminary impact assessment on the website of the Ministry of Transport, Information Technology and Communications on the Internet and on the Public Consultation Portal.

(2) The announcement referred to in Paragraph (1) shall state the place where interested parties may obtain the drafts and a time limit, not shorter than thirty days, wherewithin the said parties may present written opinions on the said drafts.

(3) The Minister of Transport, Information Technology and Communications shall examine the opinions and shall incorporate the accepted proposals.

(4) The public consultation procedure shall be concluded by posting on the Internet site of the Ministry of Transport, Information Technology and Communications of the opinions received, the proposals received, the places and the texts whereby the accepted proposals have been accepted, and the reasoning for the rejected proposals.

**Article 19.** (Supplemented, SG No. 11/2014, effective 7.02.2014, amended, SG No. 100/2019, effective 1.01.2020) (1) (Amended, SG No. 15/2022, effective 22.02.2022) At the expense of revenues from fees, fines and financial penalties received into the budget of the Communications Regulation Commission under this Act, the Postal Services Act, the Electronic Document and Electronic Trust Services Act and the Electronic Communications Networks and Physical Infrastructure Act, a transfer to support activities and projects of the Ministry of Transport and Communications and the Ministry of e-Government is envisaged.

(2) The transfer referred to in paragraph 1 is envisaged up to the amount by which the revenues referred to in paragraph 1 exceed the expenditure allocated in the budget of the Communications Regulation Commission.

(3) (New, SG No. 20/2021) The specific amount of the transfer under Paragraph (1) shall be determined by the Law on the State Budget of the Republic of Bulgaria for the respective year and shall be made in four equal instalments by the end of each quarter.

**Article 20.** (1) (Amended, SG No. 17/2009) The resources covered under Article 19 herein shall be spent on:

1. projects assisting the development of Information Society, electronic communications and postal services;
  2. establishing of a single national and European information space: varied, reliable and compatible broadband services;
  3. facilitating research and development in Information Society, electronic communications and postal services;
  4. facilitating the implementation of information technology in small and medium-sizes enterprises;
  5. facilitating the development of education and vocational training in information technology;
  6. projects providing affordable electronic communications services;
  7. research and marketing in Information Society, information technology, of electronic communications and of postal services;
  8. participation in European projects, programmes and other initiatives;
  9. (supplemented, SG No. 21/2018, effective 9.03.2018) projects related to the establishment and modernization of electronic communications networks and and physical infrastructure for the deployment thereof and of the postal infrastructure;
  10. release of radio spectrum for civilian purposes;
  11. projects for support of the state governance related to information technology, electronic communications and postal services;
  12. (amended, SG No. 109/2007) projects related to national security, subject to clearance with the Ministry of Interior, the Ministry of Defence and the State Agency for National Security;
  13. activities and participation in projects related to NATO and other collective security organizations;
  14. (amended, SG No. 17/2009, SG No. 35/2009, effective 12.05.2009, SG No. 89/2009, effective 10.11.2009, supplemented, SG No. 93/2009, effective 25.12.2009) projects related to the governance of the country in cases of disasters and industrial accidents after clearance with the Ministry of Interior.
- (2) The resources on the activities covered under Paragraph (1), with the exception of Items 10, 12 and 13, shall be spent applying the principles of competitiveness, transparency and non-discrimination.
- (3) In implementing the projects relating to the national security NATO and other organizations for joint security, the procedures applicable to them shall apply.
- (4) (Repealed, SG No. 100/2019, effective 1.01.2020).

## **Chapter Four**

### **REGULATION OF ELECTRONIC COMMUNICATIONS**

#### **Section I**

#### **Communications Regulation Commission**

**Article 21.** (1) The regulatory and control functions upon implementation of electronic communications shall be performed by the Communications Regulation Commission, hereinafter referred to as "the Commission".

(2) The Commission shall be an independent specialized state body. The Commission shall be a legal entity with a head office in Sofia.

(3) The Commission shall implement the statutory instruments of primary and secondary legislation and the general administrative acts in electronic communications, the electronic communications policy, the radio spectrum planning and allocation policy, and the postal services policy.

(4) (Supplemented, SG No. 20/2021) The Commission shall regulate and control the implementation of electronic communications in accordance with this Act and the European Union law defining the



powers and obligations of the national regulatory or other competent authorities in the field of electronic communications.

(5) (Amended, SG No. 85/2017) The Commission shall regulate and control the implementation of electronic communications in accordance with the requirements of Regulation (EU) N. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ, L 257/73 of 28.8.2014), referred to hereinafter "Regulation (EU) No. 910/2014", and of the Electronic Document and Electronic Trust Services Act.

**Article 22.** (1) (Amended, SG No. 17/2009, SG No. 37/2009, effective 1.07.2009, SG No. 27/2010, effective 9.04.2010) The Commission shall be a collective authority, which shall consist of five members, including a Chairperson and a Deputy Chairperson.

(2) The members of the Commission shall be Bulgarian citizens:

1. (amended, SG No. 20/2021) holding at least master's degree;
2. with a permanent address within the territory of Bulgaria;
3. who have not been sentenced to deprivation of liberty for general crime;
4. (new, SG No. 20/2021) with an established reputation and professional experience of not less than 10 years, of which at least 5 years in the field of electronic communications, postal services, media, information technology, law or economics.

(3) The Chairperson of the Commission shall be designated and dismissed by decision of the Council of Ministers and shall be appointed by order of the Prime Minister for a term of 5 years.

(4) The Deputy Chairperson and two of the members of the Commission shall be elected and dismissed by resolution of the National Assembly for a term of 5 years.

(5) One of the members of the Commission shall be appointed and dismissed by decree of the President of the Republic for a term of 5 years.

(6) (New, SG No. 20/2021) The chairman, vice-chairman and members of the Commission shall be appointed after an open and transparent selection procedure.

(7) (Renumbered from Paragraph 6, SG No. 20/2021) Each of the members of the commission may not serve more than two full terms under Paragraphs (3), (4) and (5).

(8) (Renumbered from Paragraph 7, SG No. 20/2021) The members of the Commission shall enjoy all rights under an employment relationship, except such that are contrary to or incompatible with the legal status thereof.

**Article 23.** (1) (Amended, SG No. 85/2017) The following shall be ineligible for membership of the Commission: sole traders, owners, partners, shareholders, managing directors, managerial agents, consultants or members of management or supervisory bodies of commercial corporations, state-owned enterprises and not-for-profit legal entities in communications and certification services within the meaning given by Regulation (EU) No. 910/2014 and of the Electronic Document and Electronic Trust Services Act.

(2) (Amended, SG No. 20/2021) The members of the Commission may not occupy any other paid position and may not perform any other paid activity, other than those under international projects and programs related to the activity of the Commission, scientific activity, teaching activity or exercising property copyrights regulated in the Copyright and Neighbouring Rights Act.

**Article 24.** (1) The credentials of a members of the Commission shall be terminated upon death or by the relevant authorities prior to expiry of the term of office in the following cases:

1. at the written request of the members within one month after receipt of the request;
2. upon ascertainment of incompatibility with the requirements of this Act;
3. where the Member is sentenced to deprivation of liberty for a premeditated offence at public law;
4. (amended, SG No. 20/2021) where the Member is unable to discharge the duties thereof for more than three consecutive months;
5. (new, SG No. 42/2009, amended, SG No. 7/2018) upon entry into force of an act which ascertains a conflict of interest under the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act.

(2) (New, SG No. 105/2011, effective 29.12.2011) The act on early termination of the credentials of a member of the Commission shall be made publicly available on the day of adoption of the said act.

The reasoning for termination of the credentials may be published at the request of the party concerned.

(3) (Renumbered from Paragraph (2), SG No. 105/2011, effective 29.12.2011) Within one month after the date of early termination of the credentials of a member of the Commission, the competent authority shall designate or elect and appoint, as the case may be, a new member to serve the remainder of the respective term of office.

(4) (Renumbered from Paragraph (3), SG No. 105/2011, effective 29.12.2011) Upon expiry of the term of office of a member of the Commission, the said member shall continue to exercise the powers thereof until entry into effect of the act on designation or election and appointment of a new member.

**Article 25.** The remunerations of the members of the Commission shall be established as follows:

1. of the Chairperson: at 90 per cent of the basic remuneration of a National Representative;
2. of the Deputy Chairperson: at 95 per cent of the basic remuneration of a National Representative;
3. of the rest of the members: at 90 per cent of the basic remuneration of a National Representative.

**Article 26.** (1) (Amended, SG No. 42/2009, SG No. 7/2018) Each member of the Commission shall be obligated to declare any private interest under the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act which the said member has upon the adoption of a specific decision and shall be obligated not to participate in the deliberation and voting of the said decision.

(2) (Amended and supplemented, SG No. 42/2009) A private interest shall always exist where the persons referred to in Paragraph (1), any lineal relatives thereof up to any degree of consanguinity, any collateral relatives thereof up to the fourth degree of consanguinity and any affines thereof up to the second degree of affinity, as well as any parties economically related thereto, provide electronic communications networks and/or services.

(3) (Repealed, SG No. 42/2009).

(4) (Repealed, SG No. 42/2009).

(5) (Amended, SG No. 85/2017) Within one year after the termination or expiry of the term of office, the members of the Commission may not be owners, shareholders, partners, managing directors, managerial agents or members of management or supervisory bodies of commercial corporations providing public electronic communications networks and/or services, may not submit a notification under Article 66 herein, nor may obtain any authorizations under this Act, and/or any authorizations and/or any licences under Regulation (EU) No. 910/2014 and of the Electronic Document and Electronic Trust Services Act.

(6) Any person who or which has standing may petition the court for a revocation of any decisions adopted in breach of Paragraph (1).

**Article 27.** (1) The Chairperson of the Commission shall perform the following functions:

1. represent the Commission or empower persons to represent it;
2. (supplemented, SG No. 20/2021) organize and manage the activity of the Commission and its administration;
3. schedule, propose the draft agenda and preside over the meetings of the Commission;
4. (amended, SG No. 38/2012, effective 1.07.2012, SG No. 20/2021) exercise the functions of an appointment body in respect of civil servants and of an employer in respect of employees working in the administration of the Commission;
5. (amended, SG No. 20/2021) organize the planning, implementation, closing and reporting of the Commission's budget.

(2) (Repealed, SG No. 17/2009, new, SG No. 105/2011, effective 29.12.2011) The activities referred to in Items 4 and 5 of Paragraph (1) shall be carried out according to rules adopted by decision of the Commission.

**Article 28.** (1) (Supplemented, SG No. 38/2012, effective 1.07.2012) In its activities, the Commission shall be assisted by an administration, which shall be subject to the Administration Act, insofar as not otherwise provided for in this Act.

- (2) (New, SG No. 38/2012, effective 1.07.2012) The administration's activities shall be performed by civil servants and by persons working under an employment relationship. The provisions of Article 107a of the Labour Code shall apply to those working under an employment relationship.
- (3) (Supplemented, SG No. 105/2011, effective 29.12.2011, repealed, renumbered from Paragraph 2, SG No. 38/2012, effective 1.07.2012, amended, SG No. 20/2021) By proposal of the Chairperson and/or a Member thereof, the Commission shall discuss and adopt Rules determining the activities, the organization of work of the Commission, the size and the structure of the administration thereof, which shall be promulgated in the State Gazette.
- (4) (Repealed, SG No. 38/2012, effective 1.07.2012, new, SG No. 20/2021) The Director-General of a General Directorate of the Commission may be assisted by a Deputy Director-General.
- (5) (Repealed, SG No. 38/2012, effective 1.07.2012).
- (6) (Repealed, SG No. 38/2012, effective 1.07.2012).

## **Section II**

### **Powers**

**Article 29.** The Commission shall exercise the powers, functions and tasks thereof for attainment of the purposes covered under Article 4 herein and in accordance with the principles covered under Article 5 herein.

**Article 30.** (1) (Previous text of Article 30, SG No. 20/2021) The Commission shall be vested with the following powers:

1. to define the relevant markets for electronic communications networks and/or services subject to regulation under this Act;
2. to study, analyze and prepare an assessment regarding the degree of competition on the relevant markets for electronic communications networks and/or services;
3. to designate the undertakings which have significant market power on the relevant market;
4. (amended, SG No. 105/2011, effective 29.12.2011) to impose, maintain, amend or withdraw specific obligations on the undertakings designated as undertakings with significant market power on the market, for attainment of the purposes of this Act;
5. as an exception, to impose justified and proportionate provisional specific obligations in the cases provided for in this Act;
6. (amended, SG No. 20/2021) impose, continue, amend or revoke measures and obligations in connection with the universal service provision;
7. (amended, SG No. 20/2021) prepare, adopt and update a regulatory policy for the use of numbers, addresses and names for the implementation of electronic communications;
8. prepare and adopt general and statutory administrative acts related to the powers vested in the Commission, in the cases provided in this Act;
9. (amended, SG No. 17/2009) prepare, adopt, or make available for adoption by the competent state bodies of the statutory instruments of secondary legislation in the cases provided for in this Act;
10. (amended, SG No. 20/2021) grant, modify, supplement, transfer, terminate or withdraw authorizations for use of individually assigned scarce resource;
11. (new, SG No. 20/2021) register and deregister registrations for use of radio frequency spectrum;
12. (renumbered from Item 11, amended, SG No. 20/2021) grant and discontinue the validity of provisional authorizations for use of scarce resource;
13. (renumbered from Item 12, amended, SG No. 20/2021) issue, amend, supplement, transfer, terminate or revoke authorisations for the use of radio frequency spectrum by electronic communications networks for terrestrial analogue radio broadcasting following a decision of the Electronic Media Council;
14. (renumbered from Item 13, amended, SG No. 20/2021) conduct study and provide information to the Council for Electronic Media on the technical parameters needed for analogue terrestrial broadcasting services, for a settlement, region or the entire territory of the Republic of Bulgaria as specified by the Council for Electronic Media, including available radio frequencies, admissible emission power, possible points of emission, as well as any other technical information required;

15. (renumbered from Item 14, amended, SG No. 20/2021) prepare, adopt and update the National Numbering Plan;
16. (renumbered from Item 15, amended and supplemented, SG No. 20/2021) grant rights to use, reserve and revoke numbering resources;
17. (new, SG No. 17/2009, renumbered from Item 16, amended, SG No. 20/2021) control the use of national numbering resources;
18. (renumbered from Item 16, SG No. 17/2009, previous text of Item 17, amended, SG No. 20/2021) facilitate the provision by international organizations of numbering resources for electronic communications in the Republic of Bulgaria;
19. (new, SG No. 105/2011, effective 29.12.2011, renumbered from Item 18, amended, SG No. 20/2021) contribute to the harmonization of specific numbers or numbering ranges within the European Union for the promotion of the functioning of the internal market and the development of pan-European services;
20. (renumbered from Item 17, SG No. 17/2009, renumbered from Item 18, SG No. 105/2011, effective 29.12.2011, renumbered from Item 19, SG No. 20/2021) represent the Republic of Bulgaria in the international organizations of regulatory authorities in the field of electronic communications;
21. (new, SG No. 105/2011, effective 29.12.2011, renumbered from Item 20, SG No. 20/2021) participate in the Body of European Regulators for Electronic Communications and contribute to coordinated and consistent regulation;
22. (new, SG No. 105/2011, effective 29.12.2011, renumbered from Item 21, SG No. 20/2021) ensure compliance with the requirements for maintaining the integrity of public electronic communications networks and the security of public electronic communications networks and services and investigate cases of non-compliance with the requirements for ensuring the security of public electronic communications networks and services and their impact on network security and services, cooperating with the competent authorities under Article 244a (3) where necessary;
23. (renumbered from Item 18, SG No. 17/2009, renumbered from Item 19, SG No. 105/2011, effective 29.12.2011, renumbered from Item 22, SG No. 20/2021) perform the functions of a national standardization organization before the European Telecommunications Standardisation Institute (ETSI) and participate in the work of the technical committees on standardization in the Republic of Bulgaria related to electronic communications;
24. (renumbered from Item 19, SG No. 17/2009, renumbered from Item 20, SG No. 105/2011, effective 29.12.2011, renumbered from Item 23, SG No. 20/2021) establish and maintain the registers provided for in this Act;
25. (renumbered from Item 20, SG No. 17/2009, renumbered from Item 21, SG No. 105/2011, effective 29.12.2011, renumbered from Item 24, SG No. 20/2021) conduct public discussions, consultations and polls in the cases and according to the procedures provided for in this Act;
26. (renumbered from Item 21, SG No. 17/2009, renumbered from Item 22, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 21/2018, effective 9.03.2018, renumbered from Item 25, SG No. 20/2021) resolve disputes between undertakings, as well as disputes under the Electronic Communications Networks and Physical Infrastructure Act;
27. (renumbered from Item 22, SG No. 17/2009, renumbered from Item 23, No. 105/2011, effective 29.12.2011, renumbered from Item 26, amended, SG No. 20/2021) contribute to the protection of the rights of end-users in the electronic communications sector in coordination with the other competent authorities and consider complaints of end-users in the cases provided for herein;
28. (new, SG No. 20/2021) determine the network termination point for the purposes of regulating the electronic communications networks and services;
29. (new, SG No. 20/2021) approve, for the purposes of application of Article 4 (4) of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures on open internet access and retail charges for regulated communications within the EU and amending Directive 2002/22 /EC and Regulation (EU) No. 531/2012 (OJ, L 310/1 of 26 November 2015), hereinafter referred to as "Regulation (EU) 2015/2120", a mechanism for monitoring the performance of the Internet access service regarding the speed or other service quality parameters;

the mechanism is developed and maintained by the Commission or a third party and provides an opportunity for end-users to measure the performance of the internet access service in terms of speed or other service quality parameters.

(2) (New, SG No. 20/2021) In exercising its powers under this law, the Commission shall take into account to the greatest extent the guidelines, opinions, recommendations, common positions, good practices and methodologies adopted by the Body of European Regulators in the field of electronic communications together with national and local specifics in the sector.

**Article 31.** (Amended, SG No. 105/2011, effective 29.12.2011) The Commission shall promote the development of the market in electronic communications networks and services, by means of:

1. applying regulatory measures to restrict the possible barriers to competition;
2. removing obstacles and barriers to competition within its competence;
3. (new, SG No. 105/2011, effective 29.12.2011) promoting investment and innovation in new and enhanced infrastructures, including by ensuring that any access obligation takes account of the risk incurred by the investing undertakings and by permitting various cooperative arrangements between investors and parties seeking access to diversify the risk of investment, whilst ensuring that competition in the market is preserved and the principle of non-discrimination is respected;
4. (new, SG No. 105/2011, effective 29.12.2011) safeguarding competition to the benefit of consumers and promoting, where appropriate, infrastructure-based competition;
5. (new, SG No. 105/2011, effective 29.12.2011) taking account of the variety of conditions relating to competition and consumers that exist in the various geographic areas;
6. (renumbered from Item 3, SG No. 105/2011, effective 29.12.2011) extending non-discriminatory treatment to all undertakings providing electronic communications networks and/or services in similar circumstances;
7. (renumbered from Item 4, amended, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) maintain mutual cooperation with other regulatory bodies, and may conclude cooperation agreements with them and the European Commission for the development of consistent regulatory practice and application of European Union law;
8. (new, SG No. 105/2011, effective 29.12.2011) impose ex-ante specific regulatory obligations only where there is no effective and sustainable competition on a relevant market and, amend or repeal these obligations when this condition is met;
9. (new, SG No. 105/2011, effective 29.12.2011) promoting regulatory predictability by ensuring a consistent regulatory approach over the periods covered under Article 157a herein;
10. (new, SG No. 20/2021) monitors and evaluates the market and the competition for open internet access.

**Article 32.** (Supplemented, SG No. 105/2011, effective 29.12.2011) (1) (Previous text of Article 32, amended, SG No. 20/2021) The Commission shall have the following powers relating to radio frequency spectrum management for civil purposes, geostationary orbit positions with the relevant radio frequency spectrum and the radio frequency spectrum used by a non-geostationary satellite system:

1. manage the radio frequency spectrum whereby:
  - (a) prepare the radio frequency management regulatory policy and promulgate the said policy in the State Gazette;
  - (b) provide for use radio frequencies and radio frequency bands for provision of electronic communications;
2. (amended and supplemented, SG No. 20/2021) determine conditions for use of the radio frequency spectrum, including the specific technical parameters for operation of the electronic communications networks and the facilities related thereto;
3. (supplemented, SG No. 20/2021) perform the international coordination of radio frequencies and radio frequency bands, as well as of radio equipment which uses such frequencies and bands, for all radio services except the aeronautical mobile radio service, aeronautical mobile-satellite radio service, aeronautical radio navigation service, aeronautical radio navigation-satellite service,

maritime mobile radio service, maritime mobile-satellite radio service, maritime radio navigation service and maritime radio navigation-satellite service;

4. perform national coordination of radio frequencies and radio frequency bands with all state bodies, central-government departments and services concerned for the purpose of ensuring the safety of aeronautical and maritime navigation and protection of national security and defence;

5. (amended, SG No. 20/2021) carry out the application and the international coordination and registration in international organizations on electronic communications, of geostationary orbit positions with the respective radio frequency spectrum and, the radio frequency spectrum used by a non-geostationary satellite system, informing the Minister of Transport, Information Technology and Communications thereof;

6. (amended, SG No. 20/2021) conduct examinations, issue and withdraw licences to amateur radio operators;

7. (amended, SG No. 20/2021) control the efficient use of the radio spectrum and/or the sources of interference in the radio spectrum for civilian needs;

8. control the observance of the established international rules of procedure for the radio services;

9. (amended, SG No. 20/2021) provide for use the allocated call signs of the radio transmission equipment of the amateur radio service and listener call signs;

10. ensure conditions for the implementation of electronic communications for the purposes of maritime and aeronautical search and rescue, as well as for dissemination of current information for ensuring the safety of maritime and aeronautical navigation and of land transport;

11. participate, jointly with the Minister of Transport, Information Technology and Communications, in the work of the international organisations related to radio spectrum management;

12. (amended, SG No. 20/2021) with regard to public interest, acting on its own initiative or on the initiative of a concerned undertaking implementing electronic communications, may re-allocate the available scarce resource -radio frequency spectrum and the geostationary orbital positions allocated to the Republic of Bulgaria pursuant to international agreements, as well as the radio frequency spectrum used by a non-geostationary satellite system that will be used to provide electronic communications networks and/or services for public or private use;

13. (new, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) on its own initiative or on the initiative of an interested person, may initiate a procedure for application, international coordination and registration of radio frequency spectrum, geostationary orbit position with the relevant radio frequency spectrum and, the radio frequency spectrum used by non-geostationary satellite system, according to the rules of international electronic communications organizations.

(2) (New, SG No. 20/2021) The activities under Item 6 of Paragraph (1) shall be performed by officials authorized by the Commission.

**Article 33.** (1) (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission shall establish and keep public registers of:

1. the persons who have notified the Commission of their intentions to provide public electronic communications networks or services;

2. the persons who hold authorizations for use of individually assigned scarce resource;

3. persons registered for use of radio frequency spectrum;

4. undertakings designated as having significant power on the relevant market

5. the numbering resources provided for use of the undertakings;

6. the number of end users, party to an agreement under Article 227, distributed by types of services offered by the relevant undertaking, based on the data from the annual report for the activity, provided by the undertaking in connection with Article 38 (1).

(2) (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The register referred to in Item 1 of Paragraph (1) shall contain the following information:

1. identification data of the person – name (company) and the relevant unique identifier;

2. electronic communications networks and/or services provided;

3. the internet web page of the undertaking.

(3) (New, SG No. 20/2021) The registers covered under Items 2 and 3 of Paragraph (1) shall contain the following information:

1. Identification data of the person:

(a) of legal entities and sole traders: name (company) and the relevant unique identifier;

(b) of natural persons: forename, patronymic and surname;

2. number, date, term of the permit or registration and data for limited resource provided.

(4) (New, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (3), amended, SG No. 20/2021) The register referred to in Item 4 of Paragraph (1) shall contain the following information:

1. (supplemented, SG No. 20/2021) identification data of the undertaking: name (company) and the respective Unified Identification Code;

2. the relevant market;

3. specific obligations imposed.

(5) (Renumbered from Paragraph (3), SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (4), SG No. 20/2021) The Commission shall post the registers covered under Paragraph (1) on the Internet site thereof.

(6) (New, SG No. 62/2020, renumbered from Paragraph 5, amended, SG No. 20/2021) The Commission shall establish and maintain a register of the receiving and transmitting stations of terrestrial networks allowing the provision of electronic communications services, and the activities performed under Item 16 of Article 151 (1) of the Spatial Development Act, as well as the small area wireless access points. The circumstances entered, the conditions and the order for keeping, maintaining and using the register, as well as the administrative fees due, including for issuing the documents under Item 4 of Article 151 (4) of the Spatial Development Act shall be determined by an ordinance of the Council of Ministers upon proposal of the Commission.

(7) (New, SG No. 62/2020, renumbered from Paragraph (6), supplemented, SG No. 20/2021) The electronic communications network operator under Paragraph (6) shall be obliged to submit an application for registration to the Commission within 14 days after the registration before the state health control bodies in accordance with the Health Act and the secondary legislation acts on its implementation. Notifications for entry in the register under Paragraph (6) of small area wireless access points shall be submitted within 14 days of their deployment.

(8) (New, SG No. 62/2020, renumbered from Paragraph (7), amended, SG No. 20/2021) The Commission shall notify ex officio the mayors of the respective municipalities and the regional health inspections for the registration under Paragraph (7).

**Article 33a.** (New, SG No. 20/2021) (1) The Commission shall deregister a person from the register under Item 1 of Article 33 (1) in the following cases:

1. upon notification submitted under Article 76;

2. in case of death of the natural person, termination of the legal entity or termination of the activity of the sole trader;

3. if the respective person is subject to registration in the commercial register and the register of non-profit legal entities and does not appear therein;

4. if for the previous three calendar years a person, entered in the register under Item 1 of Article 33 (1) as operator of electronic communications only on the basis of a submitted notification, has not submitted to the commission annual reports for the activity in relation to Article 38 (1);

5. in case of any of the above circumstances in respect of a foreign person entitled to provide electronic communications networks or services on the territory of the Republic of Bulgaria;

6. in the cases referred to in Article 78 (3) herein.

(2) In the cases under Items 2 - 6 of Paragraph (1), except in case of death of the natural person, the Commission shall adopt a list of the respective persons, which shall be published on the Commission's website. The persons included in the list shall be notified of the forthcoming deregistration from the register under Item 1 of Article 33 (1) and of the specific grounds and motives and, they shall be given a term for opinion not shorter than 30 days from receipt of the notification.

(3) After expiry of the term under Paragraph (2) the Commission shall express its opinion by a decision.

**Article 34.** The Commission shall control the application of:

1. the statutory instruments on electronic communications;
2. the pricing principles and rules provided for in this Act;
3. the quality of service parameters and requirements;
4. (supplemented, SG No. 20/2021) the specific conditions and parameters for use of a scarce resource as provided for the registrations and in the authorizations;
5. (amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) the applicable requirements under Article 73 herein and the imposed obligations under this Act;
6. the requirements for universal service provision.

**Article 35.** (1) Upon exercise of the powers vested therein, the Commission shall pronounce by reasoned decisions.

(2) (Amended, SG No. 77/2018, effective 1.01.2019) The decisions referred to in Paragraph (1) shall be individual or general administrative acts and shall be appealable according to the procedure established by the Administrative Procedure Code before the Administrative Court - Sofia Region.

(3) By decisions the Commission may furthermore adopt statutory administrative acts within its competence.

(4) (Repealed, SG No. 20/2021).

(5) Decisions shall be adopted by a simple majority of the members of the Commission.

(6) (Amended, SG No. 105/2011, effective 29.12.2011) The Commission shall include a direction on the anticipatory enforcement, under the terms established by Article 60 of the Administrative Procedure Code, upon the issuing of the following individual administrative acts:

1. any decisions whereby information required for an analysis of the relevant markets is demanded from undertakings;

2. (supplemented, SG No. 105/2011, effective 29.12.2011) any decisions on definition and analysis of relevant markets, on designation of undertakings with significant market power on a relevant market, on imposition of specific obligations on undertakings with significant market power on a relevant market and on imposition of provisional obligations;

3. any decisions concerning the fulfilment of specific obligations imposed on undertakings with significant market power on a relevant market;

4. any decisions on disputes between undertakings;

5. (new, SG No. 17/2009, amended, SG No. 20/2021) any decisions whereby the Commission grants an authorization to the candidate, who has won the contest for use of radio frequency spectrum by electronic communications networks for digital terrestrial broadcasting;

6. (new, SG No. 20/2021) decisions imposing obligations for access and/or interconnection and interoperability of services.

(7) (New, SG No. 105/2011, effective 29.12.2011) The meetings of the Commission shall be open to the public. In respect of specific items on the agenda, the Commission may hold a meeting behind closed doors where adoption of a decision requires any information protected by a law.

(8) (New, SG No. 105/2011, effective 29.12.2011) Prior to holding the meetings, the Commission shall publish the drafts of an agenda on the Internet site thereof.

(9) (New, SG No. 105/2011, effective 29.12.2011) The minutes of proceedings at the meetings and the decisions of the Commission shall be published on the Internet site thereof, with the exception of the information protected by a law.

**Article 36.** (1) (Amended and supplemented, SG No. 20/2021) (1) Upon preparing drafts of any general and statutory administrative acts provided for in this Act, the Commission shall conduct a public consultation procedure by announcing the draft as prepared and the reasoning for the preparation of the said draft on the Internet web site of the Commission and on the Public Consultation Portal.

(2) The announcement referred to in Paragraph (1) shall state the place where interested parties may obtain the draft and a time limit, not shorter than thirty days, wherewithin the said parties may present written opinions on the said drafts.

(3) The Commission shall examine the opinions and shall incorporate the accepted proposals.



(4) (Supplemented, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The public consultation procedure shall be concluded by posting on the web page of the Commission and for the statutory acts – on the Public Consultation Portal, of the opinions received, except for the parts representing trade secret, the accepted proposals, the places and the texts where they are reflected, and the reasons for the rejected ones.

**Article 37.** (1) Before adopting a decision on important matters of public relevance to the development of electronic communications, the Commission shall consult the public.

(2) (Amended, SG No. 20/2021) The procedure referred to in Paragraph (1) shall commence by publication of an announcement on the forthcoming consultations on the Internet web page of the Commission.

(3) (Amended and supplemented, SG No. 20/2021) The announcement referred to in Paragraph (2) shall mandatorily specify the matter raised for consultation, the place where interested parties may obtain the position of the Commission on the matter raised for consultation, the reasons underlying the position of the Commission, as well as a time limit, not shorter than 30 days, within which a written opinion may be presented. In exceptional cases and explicit indication of the reasons in the rationale, the Commission may set another term, but not shorter than 14 days.

(4) The Commission shall examine all opinions and shall post on the Internet site thereof the reasoning justifying the decision adopted.

**Article 37a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Previous text of Article 37a, amended, SG No. 20/2021) The Commission shall inform the Consumer Protection Commission and consumer associations of opening of any procedures under Articles 36 and 37 herein where the said procedures involve matters related to the rights of end-users, including consumers with disabilities and, the Commission for Personal Data Protection where the said matters are related to processing of personal data.

(2) (New, SG No. 20/2021) The Commission, in coordination with the other competent authorities, shall establish a consultation mechanism accessible to consumers with disabilities to ensure that, in deciding on end-user rights in relation to public electronic communications services, the interests of end-users in the field of electronic communications are taken into account to the extent necessary.

**Article 38.** (1) (Amended, SG No. 47/2019) The Commission shall prepare and adopt an annual report and shall submit it to the National Assembly by the end of the second quarter of following year. By the same date, the report shall furthermore be provided to the President of the Republic and to the Council of Ministers. Any such report shall contain:

1. an analysis of the universal service provision, including the degree of satisfaction and quality;
2. (amended, SG No. 20/2021) allocation of the assigned scarce resource as provided for use and the mechanisms applied for the effective use of the said resource;
3. (repealed, SG No. 105/2011, effective 29.12.2011);
4. (amended, SG No. 47/2019) situation overview and assessment of the development of competition on the markets for electronic communication networks and/or services;
5. financial position and institutional development of the Commission and of the administration thereof;
6. a report on the performance of the activities during the preceding year.

(2) (Amended, SG No. 105/2011, effective 29.12.2011) Upon preparation of the assessment referred to in Item 4 of Paragraph (1), the Commission on Protection of Competition shall express an opinion within fourteen days.

(3) (New, SG No. 47/2019) In addition to the data provided by undertakings, when preparing the report referred to in Paragraph (1) the Commission may also use other publicly available information from official sources as well as publicly available market surveys. The market surveys referred to in the first sentence must be representative and quantitative, their data comparable to data collected by the Commission, must be carried out in accordance with the principles and criteria of statistical activity and according to a methodology agreed with the Commission and must be published on its Internet site.

(4) (Renumbered from Paragraph 3, amended, SG No. 47/2019) The Commission shall publish report on its web page the following.

**Article 39.** (1) The Commission may establish advisory structures in connection with the exercise of the powers vested therein.

(2) The decision on establishment of any structures under Paragraph (1) shall designate the head and composition of the said structures, the procedure for performance of the activity thereof, and the functions and tasks thereof.

### **Section III**

#### **Provision of Information**

**Article 40.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The Commission may request information related to the implementation of this Act and the by-laws on its implementation, the rights of use or the imposed obligations under this Act.

(2) (New, SG No. 20/2021) The Commission may address to undertakings providing electronic communications networks or services, associated facilities or related services, substantiated written requests for information in the relevant volume, time and details necessary for the performance of its regulatory functions or required by the Body of European Regulators for Electronic Communications, including: financial information; information on future development of the networks or services which may have an impact on the wholesale services provided by said undertakings to competitors; accounting data on retail markets related to wholesale markets by undertakings with significant market power on the wholesale market; information about their electronic communications networks or the associated facilities, which is itemized at local level and sufficiently detailed to enable the geographical survey under Article 181a and the identifying the regions pursuant to Article 181b.

(3) (New, SG No. 20/2021) In the reasoning to the request for information under Paragraphs (1) and (2) the Commission shall state the reasons and the purposes for which the information is requested. The request must be proportionate to and objectively justified by the following purposes:

1. systematic or case-by-case verification in connection with:

(a) the payment of administrative fees and/or fees for use of scarce resource;

(b) the effective and efficient use of a scarce resource;

(c) the compliance with the obligations imposed according to the procedure established by this Act;

2. case-by-case verification of compliance with the requirements of Article 73 herein and the conditions and obligations under Article 85 (11), Article 106 (2) and Article 107 (2), where a complaint has been received or on the initiative of the Commission;

3. conduct of procedures for consideration and evaluation of a request for granting of individual authorization for use of scarce resource;

4. publication of comparative reviews of the quality and prices of services for the benefit of consumers;

5. clearly defined statistical purposes, reports or studies;

6. analysis of the relevant market, including data on downstream markets or retail markets adjacent to or related to the markets undergoing the market analysis;

7. ensuring the efficient use and effective management of the radio spectrum and the numbering resources;

8. assessment of the future development of the networks or services, which could affect the wholesale services provided to competitors, the territorial scope, the connectivity of the end users or the determination of the regions under Article 181b;

9. conducting geographical research;

10. responding to reasonable requests for information by the Body of European Regulators for Electronic Communications.

(4) (New, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (2), amended, SG No. 20/2021) The information for the purposes of Items 1, 2, 4 to 10 of Paragraph (3) may not be required prior to, or as a condition for, market access.

- (5) (Amended and supplemented, SG No. 109/2007, amended, SG No.35/2009, effective 12.05.2009, renumbered from Paragraph (2), SG No.105/2011, effective 29.12.2011, renumbered from Paragraph (3), supplemented, SG No. 20/2021, amended, SG No. 15/2022, effective 22.02.2022) After a reasoned written request from the Ministry of Transport and Communications, Ministry of e-Government, the Ministry of Defence, the Ministry of Interior, and/or the State Agency for National Security, the Commission shall provide the information referred to in Paragraphs (1) and (2) for the needs of state policy, planning, protection of national security and defence.
- (6) (Renumbered from Paragraph (3) SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (4), supplemented, SG No. 20/2021) When requesting the information referred to in Paragraphs (1) and (2), the Commission shall require from the undertakings which provide the said information to indicate, for each particular case, expressly and in writing, the part of the information provided which constitutes a trade secret.
- (7) (Renumbered from Paragraph (4) SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (5), supplemented, SG No. 20/2021) The members of the Commission and the employees of the administration thereof shall be obligated not to disseminate the information obtained under Paragraphs (1) and (2) in case the said information has been designated to constitute a business secret.
- (8) (Renumbered from Paragraph (5), SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (6), supplemented, SG No. 20/2021) Upon a reasoned request on the part of the European Commission, the Body of European Regulators for Electronic Communications or a regulatory or other competent authority of a Member State of the European Union, the Commission shall provide the information required for the exercising of the powers of the said authorities.
- (9) (Renumbered from Paragraph (6), amended, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (7), amended, SG No. 20/2021) If the information under Paragraphs (1) and (2), including those collected during the geographical survey, is submitted to the European Commission, the Body of European Regulators for Electronic Communications or other bodies, including regulatory or other competent authorities of Member States of the European Union, the Commission shall require from the recipients to observe the trade secret in accordance with Paragraph (6). Trade secrecy may not prevent the timely exchange of information for the purposes of reviewing, monitoring and supervising the application of the law and applicable law of the European Union.
- (10) (Renumbered from Paragraph (7) SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (8), supplemented, SG No. 20/2021) The undertakings referred to in Paragraphs (1) and (2) may, by a reasoned written request, state that the information provided thereby to the Commission must not be provided by the European Commission and the Body of European Regulators for Electronic Communications to regulatory authorities of Member States of the European Union.
- (11) (Renumbered from Paragraph (8), SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (9), amended and supplemented, SG No. 20/2021) The Commission in providing the information under Paragraphs (1) and (2) to the European Commission, the Body of European Regulators for Electronic Communications or other bodies, including regulatory or other competent authorities of Member States of the European Union, shall notify the undertakings that have provided it.
- (12) (New, SG No. 20/2021) When the information collected in accordance with Paragraphs (1) and (2), is insufficient for the Commission and the Body of European Regulators for Electronic Communications to perform their regulatory tasks, this information may be requested from other undertakings whose activity is in the field of electronic communications or in closely related sectors.
- (13) (New, SG No. 20/2021) The Commission may receive information from the Single Information Point under Article 4 of the Electronic Communications Networks and Physical Infrastructure Act.
- (14) (New, SG No. 20/2021) The information available to the Commission may also be provided to the Body of European Regulators for Electronic Communications or to another body, including a regulatory or other competent body of a Member State of the European Union, upon a motivated request and under the conditions of Paragraphs (9) and (10), where necessary in order for the in order for the body concerned to be able to carry out its assigned duties.

(15) (New, SG No. 20/2021) The request for information may be made according to a template developed by the Body of European Regulators for Electronic Communications in order to facilitate the processing, analysis and presentation of that information.

(16) (New, SG No. 20/2021) The information under Paragraph (2) relating to the rights for use of the radio frequency spectrum shall include data on the efficient and effective use of the radio frequency spectrum and the fulfilment of obligations for coverage, quality of the services related to the rights of use thereof and exercising control.

(17) (New, SG No. 20/2021) The information, required by the Body of European Regulators for Electronic Communications pursuant to Article 40 of Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the BEREC Support Agency (BEREC Office) amending Regulation (EU) 2015/2120 and repealing Regulation (EC) № 1211/2009 (OJ L 321/1 of 17 December 2018), which has been submitted to the Commission shall not be required again by the latter.

**Article 41.** (1) In accordance with the provisions of the Access to Public Information Act, the Commission shall provide, upon request, information received from the undertakings implementing electronic communications.

(2) (Supplemented, SG No. 105/2011, effective 29.12.2011) The terms and procedure for access to the information referred to in Paragraph (1) shall be established by the Commission by a statutory administrative act which shall be promulgated in the State Gazette.

#### **Section IV**

#### **Interaction and Consultations with European Commission, with Body of European Regulators for Electronic Communications and with National Regulatory Authorities of Member States of European Union**

**(Heading amended, SG No. 105/2011, effective 29.12.2011)**

**Article 41a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Previous text of Article 41a, amended, SG No. 20/2021) The Commission shall interact with the European Commission, with the Body of European Regulators for Electronic Communications and with the regulatory authorities of the Member States of the European Union in a transparent manner for the development of the single market of the European Union and the regulatory means and the obligations that are most appropriate for each specific case.

(2) (New, SG No. 20/2021) The Commission shall participate in joint peer reviews organized by the Radio Spectrum Policy Group.

**Article 42.** (Amended, SG No. 105/2011, effective 29.12.2011) (1) (Supplemented, SG No. 20/2021) The Commission, after conducting a public discussion under Article 36 shall simultaneously send to the European Commission, to the Body of European Regulators for Electronic Communications and to the regulatory authorities of the Member States of the European Union the draft decision and the reasons thereof, where:

1. (amended, SG No. 20/2021) the draft of the decision is related to the powers of the Commission under Items 1 – 4 of Article 30 (1) herein or falls within the scope of Articles 152, 154 – 157a, 160 – 160c, 163, 166 or 221 herein, and

2. affects trade between the Member States of the European Union.

(2) In case no opinions are received from the European Commission, from the Body of European Regulators for Electronic Communications and from the regulatory authorities of the Member States of the European Union within one month from the date of forwarding the draft decision under Paragraph (1), the Commission shall adopt a final decision.

(3) In adopting the decision referred to in Paragraph (1), the Commission shall take the utmost account of the opinions of the European Commission, of the Body of European Regulators for Electronic Communications and of the regulatory authorities of the Member States of the European Union.

(4) The Commission shall transmit all final decisions to the European Commission and to the Body of European Regulators for Electronic Communications.

(5) (New, SG No. 20/2021) Where obligations under an international agreement are fulfilled, the procedure under Paragraph (1) herein shall be applied.

**Article 42a.** (New, SG No. 105/2011, effective 29.12.2011) (1) By the draft of a decision referred to in Article 42 (1) herein, the Commission may furthermore:

1. (amended and supplemented, SG No. 20/2021) a relevant market different from the markets set out in the applicable recommendation of the European Commission on relevant product and service markets within the electronic communications sector, or

2. designate an undertaking which, either individually or jointly with other undertakings, has significant market power on a relevant market.

(2) (Amended, SG No. 20/2021) In the cases under Paragraph (1,) where the European Commission adopts an opinion according to which a draft decision would affect trade between the Member States of the European Union, would create barriers in the internal market of the European Union or, where the European Commission has serious doubts as to the compatibility of a draft decision with European Union law, the adoption of the draft decision shall be postponed for another 2 months.

(3) In case the European Commission lifts its reservations on the draft of a decision within the time limit referred to in Paragraph (2), the Commission shall adopt a final decision and shall transmit the said decision to the European Commission and to the Body of European Regulators for Electronic Communications.

(4) In case the European Commission requires the Commission to withdraw the draft of a decision within the time limit referred to in Paragraph (2), the Commission shall amend or withdraw the draft of a decision within six months after the date of adoption of the decision by the European Commission.

(5) In case the Commission amends the draft of a decision, the procedures referred to in Articles 36 and 42 herein shall be conducted anew.

**Article 42b.** (New, SG No. 105/2011, effective 29.12.2011) (1) By the draft of a decision referred to in Article 42 (1) herein, the Commission may impose obligations provided for in this Act or maintain, amend or withdraw obligations already imposed.

(2) In case no opinions are received from the European Commission, from the Body of European Regulators for Electronic Communications and from the regulatory authorities of the Member States of the European Union within one month after the date of transmittal of the draft of a decision referred to in Paragraph (1), the Commission shall adopt a final decision.

(3) In adopting the decision referred to in Paragraph (1), the Commission shall take the utmost account of the opinions of the European Commission, of the Body of European Regulators for Electronic Communications and of the regulatory authorities of the Member States of the European Union.

(4) (Amended, SG No. 20/2021) In the cases under Paragraph (1), where the European Commission adopts an opinion according to which the measures proposed by a draft decision would affect trade between the Member States of the European Union, would create barriers in the internal market of the European Union or, if the European Commission has serious doubts as to the compatibility of a draft decision with European Union law, the adoption of the draft decision shall be postponed for three months.

(5) Within the time limit referred to in Paragraph (4), the Commission shall interact with the European Commission and with the Body of European Regulators for Electronic Communications for the purpose of identifying the most appropriate obligations for attainment of the purposes covered under Article 4 herein and taking account of the views of interested parties and the need to ensure the development of consistent regulatory practice.

(6) In case the Body of European Regulators for Electronic Communications shares the doubts of the European Commission within six weeks after the beginning of the time limit referred to in Paragraph (4), the Commission may, within the time limit referred to in Paragraph (4), amend the draft of a decision, taking utmost account of the opinions and proposals of the European Commission and the

Body of European Regulators for Electronic Communications to withdraw the draft or a decision or to maintain the draft of a decision.

(7) In case the Body of European Regulators for Electronic Communications does not share the doubts of the European Commission within six weeks after the beginning of the time limit referred to in Paragraph (4) or if the Commission amends or maintains the draft of a decision, the European Commission may, within one month after the expiry of the time limit referred to in Paragraph (4), take a decision to lift its reservations or issue a recommendation requiring the Commission to amend or withdraw the draft of a decision.

(8) Within one month of the European Commission issuing the recommendation or lifting its reservations, the Commission shall notify the European Commission and the Body of European Regulators for Electronic Communications of the adopted final measures. The time limit of one month may be extended for conduct of a public consultation according to the procedure established by Article 36 herein.

(9) (Supplemented, SG No. 20/2021) The Commission may not amend or withdraw the draft decision on the basis of a recommendation of the European Commission, providing a reasoned justification thereof.

(10) (New, SG No. 20/2021) In case that within 6 weeks from the beginning of the term under Paragraph (4) the Body of European Regulators for Electronic Communications supports the doubts of the European Commission and the Commission amends or maintains the draft decision on a measure under Article 160a or Article 172g, the European Commission may, within one month from expiry of the term under Paragraph (4), adopt a decision requiring the Commission to withdraw the draft decision. In this case the procedure under Article 42a (4) and (5) shall be followed.

(11) (Renumbered from Paragraph (10), SG No. 20/2021) The Commission may withdraw the draft decision at any stage of the procedure.

**Article 42c.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) In exceptional cases, where the Commission considers that there is an urgent need for action to protect competition and the user interests, the Commission shall impose reasoned proportionate provisional obligations.

(2) After adoption of the decision referred to in Paragraph (1), the Commission shall notify the European Commission, the Body of European Regulators for Electronic Communications and the regulatory authorities of the Member States of the European Union of the provisional obligations imposed, stating the reasons for the imposition thereof.

(3) The decision referred to in Paragraph (1) may be adopted without conduct of public discussion and public consultation.

(4) The Commission may extend the time for which the provisional obligations are applicable or to render such obligations permanent after conduct of the procedure under Article 42 herein in conjunction with Chapter Nine herein.

**Article 42d.** (New, SG No. 20/2021) Upon submission of the draft decision under Article 42 to the European Commission, the Body of European Regulators for Electronic Communications and the regulatory authorities of the Member States of the European Union, the Commission shall comply with the recommendations or guidelines of the European Commission which determine the form, content and level of detail, the circumstances in which no notification is required, as well as the setting of deadlines.

**Article 43.** The Commission shall comply with the requirements of confidentiality of the information received from the European Commission and the regulatory authorities of other Member States of the European Union.

**Article 43a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The Commission shall comply with the recommendations of the European Commission where it is established that there is a difference in the performance of regulatory functions which may create barriers to internal market of the European Union.

(2) In case the Commission does not follow the recommendations referred to in Paragraph (1), the Commission shall notify the European Commission, giving the reasons or the position thereof.

**Article 43b.** (New, SG No. 105/2011, effective 29.12.2011) (1) The Commission shall collect and maintain information on the general subject matter of appeals against decisions of the Commission, the number of such appeals, the duration of the appeal procedures and the number of acts of the competent court suspending the effect of decisions of the Commission.  
(2) The Commission shall provide the information referred to in Paragraph (1) to the European Commission and to the Body of European Regulators for Electronic Communications after receiving a reasoned request.

## **Section V**

### **Interaction with Commission on Protection of Competition**

**Article 44.** (1) The Communications Regulation Commission and the Commission on Protection of Competition shall interact and act in coordination for attainment of the purposes covered under Article 4 herein in accordance with this Act and on the basis of rules adopted by decisions of the two commissions.  
(2) The rules referred to in Paragraph (1) shall be posted on the Internet site of each one of the commissions.

**Article 45.** The interaction between the Commission and the Commission on Protection of Competition shall be implemented in forms such as:

1. consultations;
2. exchange of information;
3. provision of opinions;
4. joint working groups.

## **Section VI**

### **Interaction with Council for Electronic Media**

**(Heading amended, SG No. 105/2011, effective 29.12.2011)**

**Article 46.** The Commission shall interact with the Council for Electronic Media under the terms and according to the procedure established by this Act and by the Radio and Television Act.

**Article 47.** (Amended, SG No. 17/2009) (1) According to the procedure established by the Radio and Television Act, the Council for Electronic Media shall issue licences on the basis of which radio or television programme services shall be distributed over electronic communications networks for digital terrestrial broadcasting.

(2) (Amended, SG No. 20/2021) (1) The licences under Paragraph (1) shall grant the right to distribution of the programme services by an undertaking which has been granted an authorization by the Commission for use of radio frequency spectrum over electronic communications networks for digital terrestrial broadcasting in the territorial scope set out in the authorization.

(3) The radio or television programme services shall be distributed by the undertaking referred to in Paragraph (2) on the basis of a written contract between the said undertaking and the radio or television broadcaster, unless otherwise provided for in a law.

(4) (Amended, SG No. 20/2021) The undertaking implementing electronic communications via electronic communications networks for terrestrial digital broadcasting shall distribute radio or television programs licensed under the Radio and Television Act.

**Article 47a.** (New, SG No. 17/2009, supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 103/2016).

**Article 48.** (Amended, SG No. 17/2009) (1) (Amended, SG No. 20/2021) The Commission shall, subject to the procedure laid down in Chapter Five, open a contest procedure for the selection of an undertaking eligible to obtain authorization for use of radiofrequency spectrum over electronic communications networks for terrestrial digital broadcasting.

(2) The expert committee for conduct of the contest shall include two representatives of the Council for Electronic Media, designated by decision of the said Council.

(3) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 103/2016).

- (4) The undertaking which has obtained an authorization under Paragraph (1) shall distribute radio or television programme services according to the requirements of the Radio and Television Act.
- (5) (Declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 45/2009)
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Any undertaking or any person related thereto within the meaning given by the Commerce Act, which has been granted an authorization for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over electronic communications networks for digital terrestrial broadcasting, shall not have the right to establish an electronic communications network for conveyance of radio and television programme services.

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**Article 48a.** (New, SG No. 17/2009, repealed, SG No. 12/2010).

**Article 49.** (1) The Commission shall adopt statutory administrative acts whereby it shall establish a procedure for ensuring of access to electronic communications services over the networks for digital terrestrial broadcasting and for provision of electronic communications services intended for users with hearing and sight impairments.

(2) Before the adoption of the acts referred to in Paragraph (1), the Commission shall conduct a public consultation according to the procedure established by Article 36 herein and shall request an opinion from the Council for Electronic Media.

(3) The Council for Electronic Media shall adopt the opinions referred to in Paragraph (2) within thirty days after receipt of the drafts of acts from the Commission.

**Article 49a.** (New, SG No. 105/2011, effective 29.12.2011) (1) The Council for Electronic Media shall register, according to the procedure established by the Radio and Television Act, radio and television broadcasters who or which create programme services intended for distribution over electronic communications networks for terrestrial or satellite broadcasting, where the signal emitted is intended for reception outside the territory of the Republic of Bulgaria.

(2) (Amended, SG No. 20/2021) Registration under Paragraph (1) shall grant the right for distribution of programme services by an undertaking which has been authorized by the Commission to use radiofrequency spectrum over electronic communications networks for terrestrial or satellite broadcasting.

(3) The radio or television programme services shall be distributed by the undertaking referred to in Paragraph (2) on the basis of a written contract between the undertaking and the radio or television broadcaster.

**Article 49b.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The Commission shall, subject to the procedure provided for in Chapter Five, open a contest procedure for the selection of an undertaking eligible to obtain authorization for use of radiofrequency spectrum over electronic communications networks for terrestrial or satellite broadcasting distributing the programmes under Article 49a.

(2) The expert committee for conduct of the contest shall include two representatives of the Council for Electronic Media, designated by decision of the said Council.

(3) The undertaking, which has obtained an authorization under Paragraph (1), shall distribute radio or television programme services according to the requirements of the Radio and Television Act.

**Article 49c.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The Commission may impose obligations for the transmission of certain radio and television programs and related ancillary services, including accessibility services aimed at providing adequate access for consumers with disabilities and, data transmission services supporting connected television and electronic program guides for undertakings providing electronic communications networks and radio and TV broadcasting services where such networks and services are used as the main means of reception of radio and television programmes by a significant number of end-users.



- (2) (New, SG No. 20/2021) The obligations under Paragraph (1) shall be proportional and transparent and shall be imposed only when they are required to achieve objectives of common interest.
- (3) (Renumbered from Paragraph (2), SG No. 20/2021) The radio and television programme services referred to in Paragraph (1) shall be designated by the Council for Electronic Media according to the procedure established by the Radio and Television Act.
- (4) (Renumbered from Paragraph (3), amended, SG No. 20/2021) The Commission shall impose the obligation referred to in Paragraph (1) on the basis of the decision of the Council for Electronic Media on designation of the programme services referred to in Paragraph (3) after conduct of consultations according to the procedure established by Article 37 herein.
- (5) (Renumbered from Paragraph (4), amended, SG No. 20/2021) The undertakings referred to in Paragraph (1) shall determine prices for distribution of the radio and television programme services referred to in Paragraph (3) respecting the principle of cost orientation.
- (6) (Renumbered from Paragraph (5), amended, SG No. 20/2021) At least once every 5 years the Commission shall review the obligations under Paragraphs (1), (3) and (4) for transmission of certain radio and television programmes, with regards to continuation, amendment or cancellation of the said obligations.

## **Section VII**

### **Financing**

**Article 50.** (Amended, SG No. 15/2013, effective 1.01.2014, SG No. 100/2019, effective 1.01.2020) The Chairperson of the Commission shall be a budget authoriser by delegation.

**Article 51.** (Amended, SG No. 17/2009, supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 38/2012, effective 1.07.2012, SG No. 85/2017, SG No. 100/2019, effective 1.01.2020) (1) The following revenues and the funds from the following shall be credited to the budget of the Commission:

1. administrative fees;
2. (amended, SG No. 20/2021) annual fees for use and for temporary use of radio spectrum;
3. (amended, SG No. 20/2021) fees for use of numbering resources;
4. licence fees and registration fees under the Postal Services Act, the Electronic Document and Electronic Trust Services Act and the Electronic Communications Networks and Physical Infrastructure Act;
5. (amended, SG No. 20/2021) the final bid price after conducting a tender for the use of radiofrequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum;
6. (amended, SG No. 20/2021) annual fees for use of the positions of the geostationary orbit with the respective radio frequency spectrum and of the radio frequency spectrum used by a non-geostationary satellite system;
7. the lump-sum fee for use of additionally provided radio spectrum;
8. fines and financial penalties provided for in this Act;
9. interest on overdue receivables;
10. proceeds from other sources and activities determined by law.

(2) (Amended, SG No. 15/2022, effective 22.02.2022) The resources on the budget of the Commission shall be spent to finance the activity of the Commission and its administration, including projects and carrying out surveys, analyses and expert opinions related to market regulation and liberalisation, participation in the work of the Body of European Regulators for Electronic Communications, to ensure effective and active control, as well as to support activities and projects of the Ministry of Transport and Communications and the Ministry of e-Government by providing transfers in accordance with Article 19.

**Article 52.** (Amended, SG No. 20/2021) In the annual report under Article 38 (1) the Commission shall publish review of its administrative costs and the total amount of collected fees.

**Article 53.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) (1) In case of difference between the total amount of the collected administrative fees and the

administrative expenses of the Commission, the Commission shall propose to the Council of Ministers amendment of the tariff under Article 147 concerning the amount of the administrative control fee.

(2) The Commission shall annually analyse the need for revision of the tariff under Article 147 and conduct public consultations under Article. 37.

(3) Depending on the results of the analysis under Paragraph (2) the Commission may propose to the Council of Ministers to adopt an amendment or supplement to the tariff under Article 147.

## **Section VIII**

### **Resolution of Disputes between Undertakings**

**Article 54.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The Commission shall render assistance or shall issue binding instructions in case of a dispute arising in connection with existing obligations under this Act between undertakings providing electronic communications networks and/or services or, between such undertakings and undertakings benefiting from obligations imposed for access or interconnection or, between undertakings providing electronic communications networks or services and providers of associated facilities where any of the aggrieved parties has submitted a written request.

(2) (Amended, SG No. 20/2021) The request under Paragraph (1) must contain the circumstances on which it is based and the certified copies of documents proving the stated circumstances shall be attached thereto.

**Article 55.** (1) Where the aggrieved party has requested assistance to reaching an agreement, the Commission shall designate a specialized committee by decision within seven days after receipt of the said request.

(2) The specialized committee shall hear the opinions of the parties, shall clarify the reasons for which the request has been made, and shall explain the adverse impact of a failure to reach an agreement.

(3) If the parties fail to reach an agreement, within thirty days after receipt of the request, each of the aggrieved parties may approach the Commission with a request to issue binding instructions within fourteen days.

(4) The procedure for rendering assistance to reach an agreement shall be free of charge.

**Article 56.** (1) Where the aggrieved parties have requested the issuing of binding instructions, the Commission shall designate a specialized committee including at least one qualified lawyer by decision within seven days after receipt of the request. Outside experts may also be recruited to take part in the work of the specialized committee as members or consultants.

(2) The specialized committee shall consider the request and the documents attached thereto within seven days after designation of the said committee.

(3) Should any deficiencies or non-conformities be ascertained in the documents, the chairperson of the specialized committee shall notify the person in writing, allowing thereto seven days reckoned from receipt of the notification to cure the deficiencies or non-conformities.

(4) In case of failure to cure the deficiencies or non-conformities within the time limit referred to in Paragraph (3), the committee shall leave the request without consideration.

**Article 57.** (1) (Amended, SG No. 17/2009) Within three days after the expiry of the time limit referred to in Article 56 (2) or (3) herein, the specialized committee referred to in Article 56 (1) herein shall transmit a copy of the request to the parties concerned, enabling the said parties to present the opinions thereof and to enclose relevant evidence within seven days after receipt.

(2) Within three days after receipt of the opinions referred to in Paragraph (1), the specialized committee shall transmit copies of the said opinions to the party which has submitted the request, enabling the said party to present an opinion and to enclose other relevant evidence within seven days after receipt.

**Article 58.** (1) The specialized committee shall examine the request as submitted and the opinions of the parties concerned, all evidence attached to the said request and opinions and, if

necessary, shall require additional evidence, including the conduct of checks by employees empowered under this Act.

(2) The checks referred to in Paragraph (1) shall be conducted within a time limit and a volume as determined by the specialized committee. Where necessary, the time limit may be extended. In any case, the time limit for conduct of a check referred to in Paragraph (1) may not exceed fourteen days.

(3) After collection of all evidence, the specialized committee shall deliberate the request and the evidence collected in the case in the presence of the parties or of authorized representatives thereof.

(4) The parties concerned shall be notified in writing of the date, time and place of conduct of the meeting at least seven days in advance of the conduct of the said meeting, and the notification shall specify that in case of non appearance of representatives of the said parties, the specialized committee shall examine the request in their absence.

(5) The specialized committee shall draw up a memorandum on the meeting held, which shall state:

1. the composition of the specialized committee and a list of the persons present;
2. presentation of the opinions of the parties;
3. findings of the specialized committee on the meeting held;
4. date on which the memorandum was drawn up.

**Article 59.** Within two months after receipt of the request referred to in Article 54 herein, the specialized committee shall prepare a report and shall lay the said report before the Commission, attaching thereto the documentation collected in the course of the procedure and a draft of a decision of the Commission regarding the request.

**Article 60.** The Commission shall consider the report referred to in Article 59 herein at its first meeting after submission of the said report, and in so doing the Commission may:

1. adopt the results of the work of the specialized committee and take a reasoned decision on the request submitted under Article 54 herein;
2. order additional actions to be taken to check the factual situation, its analysis by the specialized committee and preparation of a new draft decision, setting a time limit for this.

**Article 61.** (1) Within four months after receipt of the request under Article 54 herein, the Commission, by reasoned decision, shall issue binding instructions on the request submitted or shall reject the said request.

(2) Within three days after adoption of the decision referred to in Paragraph (1), the said decision shall be transmitted to the parties concerned and shall be posted on the Internet site of the Commission, with the exception of the information designated by the parties as constituting business secret.

(3) (New, SG No. 20/2021) Regardless of the actions taken under Article 54, at any time of the procedure any party may approach the competent court for settlement of the dispute by judicial process.

**Article 62.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) Where a request has been submitted for resolution of a dispute within the competence of a regulatory authority of another Member State of the European Union as well, the specialized committee referred to in Article 56 herein shall consider the request and the documents attached thereto.

(2) The Commission shall transmit a copy of the request to the competent regulatory authorities for opinion.

(3) (New, SG No. 105/2011, effective 29.12.2011) Before resolving the dispute, the specialized committee, acting through the Commission, may require additional evidence and opinions from the aggrieved parties and from the relevant regulatory authorities.

(4) (Renumbered from Paragraph (3), SG No. 105/2011, effective 29.12.2011) The Commission and the regulatory authorities referred to in Paragraph (1) may jointly decline to resolve a dispute when they decide that other mechanisms exist which would better contribute to resolution of the said dispute in a timely manner, and they shall notify the parties of this within fourteen days.

(5) (Repealed, renumbered from Paragraph 4, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

(6) (New, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) The Commission shall coordinate its position with the competent national regulatory authorities and, where the dispute affects trade between Member States of the European Union, the Commission shall notify the Body of European Regulators for Electronic Communications with a view to resolving the dispute under Article 4 herein.

(7) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission may request the Body of European Regulators for Electronic Communications to adopt an opinion on the actions to be taken to resolve the dispute.

(8) (New, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) When a request is made under Paragraph (7) herein, the Commission shall take action to resolve the dispute after obtaining the opinion of the Body of European Regulators for Electronic Communications, without excluding the possibility, if urgently needed, to take interim measures at the request of the parties or on its own initiative in order to protect competition or the interests of end-users.

(9) (Renumbered from Paragraph (6), SG No. 105/2011, effective 29.12.2011) After collection of all evidence, the specialized committee shall prepare a report and shall lay the said report before the Commission, attaching thereto the documentation collected.

(10) (Renumbered from Paragraph (7), amended, SG No. 105/2011, effective, 29.12.2011, SG No. 20/2021) The Commission shall adopt, by decision, an opinion on the request submitted under Paragraph (1), taking the utmost account of the opinion of the Body of European Regulators for Electronic Communications as well as the position of the competent national regulatory authorities. The opinion of the Commission shall be transmitted to the relevant competent national regulatory authorities.

(11) (New, SG No. 20/2021) The opinion of the Commission on the request made under Paragraph (1) shall be adopted within one month after the adoption of the opinion of the Body of European Regulators for Electronic Communications.

(12) (Renumbered from Paragraph (8), amended, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (11), SG No. 20/2021) Upon receipt of a confirmation from the relevant competent national regulatory authorities on the opinion, the Commission shall adopt a decision in accordance with the opinion, transmitting the said decision to the parties concerned. In adopting the decision on the dispute and imposing obligations on the relevant undertaking, the Commission may impose solely obligations provided for in this Act and according to the procedure provided for therein.

(13) (New, SG No. 20/2021) Regardless of the actions taken under Paragraphs 1 – 4 and 6 – 12 any party may approach the competent court for settlement of the dispute by judicial process.

**Article 62a.** (New, SG No. 20/2021) The procedure under Article 62 shall not apply to disputes related to the coordination of the radio frequency spectrum.

## **Section IX**

### **Accounting Separation**

**Article 63.** (Amended, SG No. 105/2011, effective 29.12.2011) (1) Undertakings providing public electronic communications networks and/or services, which have special or exclusive rights for the provision of services in other sectors, including in other Member States of the European Union:

1. shall keep separate accounts for the activities associated with the implementation of electronic communications, under the terms in which such analytical accounts are kept for the activities carried out by legally independent entities, or
2. shall apply structural separation to the activities associated with the implementation of electronic communications.

(2) (Amended, SG No. 20/2021) The obligations under Paragraph (1) shall not apply to undertakings whose annual turnover in activities associated with implementation of electronic communications is

less than the BGN equivalent of EUR 50,000,000 according to Bulgarian Lev to Euro official exchange rate.

(3) (New, SG No. 20/2021) Where the undertakings providing public electronic communications networks or services are not commercial companies and not micro, small and medium sized enterprises under Article 19 (2) – (4) of the Accountancy Act, the financial statements of the said undertakings shall be compiled, subject to independent financial audit and published in an economic publication or on the Internet. The audit shall be conducted in accordance with the requirements of the Independent Financial Audit Act and the law of the European Union.

(4) (New, SG No. 20/2021) The requirements under Paragraph (3) shall also be applied to the separate accounting under Item 1 of Paragraph (1).

## **Chapter Five**

### **IMPLEMENTATION OF ELECTRONIC COMMUNICATIONS**

#### **Section I**

#### **General Provisions**

**Article 64.** (Supplemented, SG No. 17/2009, amended, SG No. 20/2021) Electronic communications shall be implemented freely, after notification, after registration or after granting of authorization for use of scarce resource complying with the requirements of this Act and the instruments on the application thereof.

**Article 65.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) Electronic communications for own needs through electronic communications networks without the use of a limited resource shall be carried out freely.

**Article 65a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 66.** (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) public electronic communications networks or services shall be provided upon submission of a notification to the Commission.

(2) Notification is not required where:

1. number-independent interpersonal communications services are provided;
2. access to a public electronic communications network is provided via a local radio network by undertakings, public sector organizations, non-governmental organizations or end-users for whom the provision of such access is not part of an economic activity or, is in addition to an economic activity or public service which is not dependent on the transmission of signals over such networks.

(3) The terms and conditions for submission of notifications shall be determined by the Commission in the general requirements under Article 73 (1). The Commission shall take into account the guidance of the Body of European Regulators for Electronic Communications on the standard form of the notification.

**Article 66a.** (New, SG No. 20/2021) (1) Radiofrequency spectrum shall be used freely after a registration or after an authorisation granted.

(2) Individual rights to use radio frequency spectrum shall be granted by registration or by authorisation issued.

(3) The use of the radio frequency spectrum in each of the cases under Paragraph (1) shall be determined by rules adopted by the Commission after a public consultation under Article 36. The said rules shall be promulgated in the State Gazette.

**Article 67.** (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) Granting of individual rights for use of the radio frequency spectrum shall be limited to the cases where such rights are necessary for the most efficient use of the radio frequency spectrum in view of the demand, taking into account the criteria under Paragraph (2).

(2) In determining the mode of use of the radiofrequency spectrum the following shall be taken into account:

1. the specific characteristics of the relevant radio frequency spectrum;
2. the need for protection against harmful interference;

3. the establishment of reliable conditions for the shared use of radio frequency spectrum, where appropriate;
4. the need to guarantee the technical quality of the connection or service;
5. the need to safeguard the efficient use of the radio frequency spectrum;
6. other objectives of general interest set out in accordance with European Union law.

(3) When determining the regime of use of harmonized radio frequency spectrum, the technical implementing measures, adopted in accordance with Article 4 of Decision № 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for European Community spectrum policy (Radio Spectrum Decision), hereinafter referred to as "Decision № 676/2002/EC", and the need to minimize the problems associated with harmful interference.

(4) In the cases of shared use of radio frequency spectrum on the basis of a combination of the regimes under Article 66a (1), the requirements under Paragraph (3) shall be applied.

(5) The possibility to use the radio frequency spectrum on the basis of a combination of the regimes under Article 66a (1) shall be considered by the Commission as appropriate, taking into account the likely impact of the different combinations of spectrum use and the gradual transition from one regime to another on competition, innovation and market entry.

(6) The Commission shall apply the most relieved spectrum use regime possible, taking into account the technological solutions for the management of harmful interference.

(7) When making the decisions under Paragraphs (1) – (6) the Commission may determine conditions for shared use of the radio frequency spectrum which is to facilitate the efficient use of the radio frequency spectrum, the competition and the innovations.

**Article 67a.** (New, SG No. 20/2021) (1) A geostationary orbital position with the relevant radio frequency spectrum shall be used after granting an authorisation.

(2) A radio frequency spectrum from a non-geostationary satellite system shall be used after an authorisation granted, except in the cases where individual rights of use are not required for such radio frequency spectrum.

**Article 67b.** (New, SG No. 20/2021) Rights to use numbering resources shall be provided upon granting an authorisation.

**Article 68.** (Amended, SG No. 20/2021) Electronic communications may be implemented by an unlimited number of persons, except in the cases where the use of scarce resource requires individual rights of use.

**Article 69.** Public electronic communications shall be implemented by sole traders and by legal persons.

**Article 70.** (Amended, SG No. 20/2021) Electronic communications shall be implemented on the territory of the whole country, unless an authorization for use of an individually assigned scarce resource or the general requirements for performance of the particular activity sets out a limited territorial range.

**Article 71.** (1) (Previous text of Article 71, amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) An authorization for use of scarce resource shall valid for an initial period of up to 20 years. The term of validity of the authorization shall be extended under Article 114 herein.

(2) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) In determining the initial term of validity of an authorization for use of numbering resources the Commission shall take into account the service concerned and the objectives pursued, taking account thereby the period for depreciation on investments.

(3) (New, SG No. 20/2021) In determining the initial term of an authorisation for use of radio frequency spectrum the Commission shall comply with the objectives under Article 90 (1), with the need to guarantee the competition, with the efficient and effective use of the radio frequency spectrum and the stimulation of the innovations and the efficient investments, taking into account also the period for depreciation on investments.

**Article 71a.** (New, SG No. 20/2021) (1) An authorization to use harmonized radio frequency spectrum for wireless broadband services shall be for an initial period of not less than 15

years, with the possibility of extension for at least 20 years in order to ensure predictability with regard to infrastructure investment conditions based on the use of such radio frequency spectrum. In determining the initial term of an authorisation the Commission shall take into account the requirements under Article 71 (3).

(2) If it is necessary to comply with the requirement under Paragraph (1) the Commission shall include in the conditions under Item 4 of Article 106 (2) the possibility for extension of the term of validity of the authorisation under the terms and conditions of Article 114a.

(3) The extension of the term of validity of the authorisation under Paragraph (1) with an initial period of 20 years, as well as of an authorisation with already extended term of validity under Article 114a shall be carried out under Article 114b, unless such extension is explicitly excluded in the conditions under Item 4 of Article 106 (2).

(4) Where an extension of the term of validity of an authorisation is envisaged under Paragraph (1), before issuing the authorisation the Commission shall conduct public consultations under Article 37 within a period of not less than three months, concerning the general criteria for the extension of the authorization, relating to:

1. the need to ensure efficient and effective use of the relevant radio spectrum;
2. achieving wireless broadband coverage on the territory of the country and the population with connection of high quality and speed, as well as coverage on the main transport routes at national and European level, including the trans-European transport network as referred to in Regulation (EU) № 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision № 661/2010/EU (OJ L 348/1, 20.12.2013), hereinafter referred to as "Regulation (EU) № 1315/2013";
3. facilitating the rapid development in the European Union of new wireless technologies and applications, including, if necessary, a cross-sectoral approach to radio spectrum management;
4. the need to achieve objectives of common interest relating to ensuring the security of human life, public order, public security or defence, and
5. the need to ensure competition without distortions.

(5) The Commission may, by a motivated decision, determine a term different from the one indicated in Paragraph (1) in the following cases:

1. in limited geographical areas, where the access to high-speed networks is seriously hampered or such access is not available, and this is necessary in accordance with the requirements of Article 124 (4);
2. for specific short-term projects;
3. for experimental use;
4. for use of the radio frequency spectrum which, in accordance with Article 130, may co-exist with wireless broadband services, or
5. for alternative use of the radio frequency spectrum in accordance with Article 124a.

**Article 71b.** (New, SG No. 20/2021) The right to use radio frequency spectrum on the basis of registration has a term of validity of up to 20 years and is in accordance with the requirements of Article 71 (3).

**Article 71c.** (New, SG No. 20/2021) Under Article 115 and in accordance with the requirements of Article 129 (4) the Commission may determine or amend the specified term of registration, of an authorisation for use of radio frequency spectrum or an authorisation for use of harmonized radio frequency spectrum, including for wireless broadband services, so as to ensure the simultaneous expiration of the rights in one or several radio frequency bands.

**Article 72.** (Repealed, SG No. 20/2021).

## **Section II**

### **Implementation of Electronic Communications in Compliance with General Requirements**

**Article 73.** (1) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) An undertaking, which has submitted a notification on implementation of public

electronic communications under Article 66 (1) herein, shall observe the general requirements adopted by decision of the Commission.

(2) (New, SG No. 20/2021) In determining the general requirements under Paragraph (1) the Commission shall respect the principles of transparency, equal treatment and proportionality.

(3) (Amended, SG No. 17/2009, renumbered from Paragraph (2), SG No. 20/2021) The decision referred to in Paragraph (1) shall be adopted after conduct of a public consultation under Article 36 herein and shall be promulgated in the State Gazette.

(4) (Amended and supplemented, SG No. 17/2009, amended, SG No. 35/2009/, effective 12.05.2009, amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 103/2016, supplemented, SG No. 21/2018, effective 9.03.2018, supplemented, SG No. 28/2018, effective 29.03.2018, renumbered from Paragraph (3), amended, SG No. 20/2021) Depending on the type of an electronic communications network or service, the applicable general requirements may contain all or some of the following requirements:

1. general terms for:

a) payment of administrative fees in accordance with Chapter Eight;

b) ensuring the protection of personal data and the right to privacy in accordance with the requirements of Chapter Fifteen, Sections II and III;

c) providing the commission with the information during the submission and consideration of a notification pursuant to Article 75, as well as the information pursuant to Article 40;

d) creating opportunities for interception of electronic communications on a legal basis by the competent authorities under Articles 251b - 251i, the Personal Data Protection Act and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ, L 119/1 of 4.5.2016), hereinafter referred to as "Regulation (EU) 2016/679".

e) ensuring conditions for the use of a network or service in relation to messages sent by public authorities to the public to warn in case of imminent threats and to mitigate the effects of severe emergencies and disasters;

f) providing conditions for the use of the network and the facilities thereof upon declared state of emergency under the Disaster Protection Act, upon declaring a state of war, martial law or state of emergency within the meaning of the Republic of Bulgaria Defence and Armed Forces Act, as well as in case of declaring a state of emergency under the Counter-Terrorism Act, to ensure the communications between the emergency services and the state authorities;

g) obligations for access beyond those provided for in Article 106 (2) and Article 107 (2) as well as in Chapters Ten and Eleven;

h) applying the operative standards or standardization deliverables in electronic communications networks and services and the associated facilities and services;

i) obligations for transparency in order to ensure end-to-end connectivity in accordance with the objectives and principles set out in Articles 4 and 5 and, where necessary and in accordance with the principle of proportionality, in order to ensure access of the Commission to the information needed to verify the accuracy of the disclosure;

2. specific conditions for the provision of electronic communications networks for:

a) interconnection of networks in accordance with Chapter Ten herein;

b) obligations for "mandatory transfer" in accordance with Article 49c;

c) measures to protect public health from the harmful effects of electromagnetic fields as a result of the operation of electronic communications networks in accordance with European Union law, taking into account as far as possible the requirements for limiting the exposure of the population to electromagnetic fields;

d) maintaining the integrity of public electronic communications networks in accordance with the requirements of Section I of Chapter Fifteen, including conditions for prevention of electromagnetic interference between electronic communications networks or services in accordance with the



requirements of the Technical Requirements Towards Products Act and the implementation acts thereof;

e) protection of public networks against unauthorized access to user data and personal data in accordance with the requirements of Sections II and III of Chapter Fifteen and the Personal Data Protection Act;

f) conditions for use of the radio frequency spectrum in accordance with Article 266, when the use is not subject to granting individual rights for use of radio frequency spectrum in accordance with Articles 67 and 79;

3. specific conditions for the provision of electronic communications services, other than number-independent interpersonal communication services, for:

a) interoperability of services in accordance with Chapter Ten;

b) accessibility for end-users to the numbers from the National Numbering Plan, numbers from the universal international toll-free telephone numbers and, where technically and economically feasible, to the numbers from the numbering plans of other Member States of the European Union, and the conditions therefor in accordance with Chapter Seven;

c) consumer protection rules specific to the electronic communications sector;

d) restrictions on the transmission of illegal content in accordance with the Electronic Commerce Act and restrictions on the transmission of harmful content in accordance with the Radio and Television Act.

**Article 73a.** (New, SG No. 17/2009, repealed, SG No. 105/2011, effective 29.12.2011).

**Article 74.** (Amended and supplemented, SG No. 105/2011, effective 29.12.2011) (1) (Previous text of Article 74, SG No. 29/2015, amended, SG No. 20/2021) An undertaking which notifies the Commission of its intention to implement public electronic communications shall have at least the following rights:

1. (amended, SG No. 20/2021) to provide electronic communications networks or services, as of the date of submission a standard form of notification to the Commission, unless individual rights are required for use of scarce resource;

2. (amended, SG No. 21/2018, effective 9.03.2018, supplemented, SG No. 20/2021) to establish, deploy, use and dispose of electronic communications networks and the physical infrastructure for the deployment thereof, as well as of the facilities pursuant to the operative law;

3. (new, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 21/2018, effective 9.03.2018, amended, SG No. 20/2021) to use radio frequency spectrum in connection with the electronic communications networks or services, observing the general requirements under Article 73, the rules under Article 66a (3), and the conditions of the authorisation for use of radio frequency spectrum, issued under this Chapter, where applicable;

4. (new, SG No. 20/2021) his requests for granting the necessary rights for use of numbering resources to be considered under the terms and conditions this Chapter;

5. (renumbered from Item 3, SG No. 105/2011, effective 29.12.2011, renumbered from Item 4, amended, SG No. 20/2021) to negotiate and obtain access to and interconnection with networks of other undertakings providing public electronic communications networks and/or services, complying with the requirements of effective legislation;

6. (renumbered from Item 4, SG No. 105/2011, effective 29.12.2011, renumbered from Item 5, amended, SG No. 20/2021) to obtain the opportunity determined to provide any or all services within the scope of universal service within the national territory or within part thereof under the procedure of Chapter Eleven herein.

(2) (New, SG No. 29/2015, amended, SG No. 20/2021) The undertaking shall publish the information under Item 6 of Article 33 (1) on its web page.

**Article 75.** (1) (Amended, SG No. 29/2015, SG No. 20/2021) The rights under Article 74(1) herein shall accrue as from the date of a duly submitted notification completed in a standard form to the Commission, except in the cases where the granting of an authorization for use of an individually assigned scarce resource is required.

(2) (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The notification shall contain only the following information:

1. identification data of the person: name (company), address of management or establishment of the person in a Member State of the European Union, and, where applicable, of subsidiaries in other Member States of the European Union, as well as the relevant standard identification code or another registration number of the person, when the latter is registered in a commercial or other public register of a Member State of the European Union;
2. a brief description of the networks or services to be provided;
3. territorial range;
4. contact person and details;
5. estimated starting date for the activities;
6. address of the person's website related to the provision of electronic communications networks or services.

(3) Any such notification shall be submitted in the Bulgarian language.

(4) In case of a deficiency of the notification, the Commission shall notify the person in writing within 7 days after receipt of the said notification to cure the deficiencies.

(5) (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) In case it is established from the submitted notification that an individual right to use a limited resource is required, the Commission shall notify the person in writing within 7 days from the date of receipt of the notification, respectively from the elimination of the incompleteness.

(6) (Supplemented, SG No. 20/2021) The Commission shall enter the person in the register under Item 1 of Article 33 (1), where applicable, and shall send the received notification to the Body of European Regulators for Electronic Communications by electronic means within 14 days from the date of receipt of the notification or from elimination of the incompleteness.

(7) (Amended, SG No. 20/2021) The person shall notify the Commission of any change in the data contained in the notification under Paragraph (1) within 14 days from the occurrence of any such change.

**Article 76.** (Amended, SG No. 20/2021) The undertaking may suspend the provision of electronic communications networks or services, of which the undertaking shall notify the Commission.

**Article 77.** (1) The undertaking implementing electronic communications under general requirements may approach the Commission with a request in writing for the issuing of a certificate on entry in the register referred to in Item 1 of Article 33 (1) herein.

(2) (Amended, SG No. 29/2015, SG No. 20/2021) The Commission shall issue the certificate referred to in Paragraph (1) within seven7 days after receipt of the request. The said certificate shall indicate the rights under Article 74 (1) herein in connection with the provision of electronic communications networks or services, the establishment of an electronic communications infrastructure, including the right of way to and interconnection of networks.

(3) (Amended, SG No. 20/2021) An administrative fee of an amount fixed in the Rate Schedule of Fees Collected by the Commission under this Act shall be paid for the issuing of a certificate referred to in Paragraph (1).

(4) (Amended, SG No. 20/2021) The administrative bodies, the persons exercising public functions, the organisations providing public services and the judicial bodies, before which the circumstances entered into the national register under Item 1 of Article 33 (1) should be proven or which require data contained in the national register, shall accept the certification of the circumstances and the data with a written referral in the relevant request and/or application, notification, declaration or other document, by which the relevant proceedings are initiated, without requiring from the applicants and/or the senders to present evidence of the circumstances and data entered into the register.

**Article 78.** (1) (Amended, SG No. 29/2015, SG No. 20/2021) In case the Commission ascertains non-compliance of the obligations arising from the applicable general requirements, of the conditions related to registrations or authorisations issued for use of limited resource, or of specific obligations imposed, the Commission shall:

1. notify the undertaking implementing electronic communications of the non-compliance ascertained, within 7 days after the ascertainment, while specifying an appropriate time limit for expressing an opinion; after the expiration of the time limit for expressing an opinion, the Commission shall require by a decision that the non-compliance be terminated and/or its consequences be remedied and/or the activity of the undertaking be brought in compliance with the specified acts within a reasonable time limit specified by the Commission;

2. require by a decision, after the expiration of the time limit for expressing an opinion under Item 1, that the non-compliance be immediately terminated, while providing obligatory instructions for termination of the non-compliance and/or for remedy of its consequences and for bringing the activity of the undertaking in compliance with the specified acts.

(2) (Repealed, SG No. 29/2015).

(3) The Commission may adopt a decision on cessation of the implementation of public electronic communications by the undertaking under Article 75 herein in case any of the following circumstances exists:

1. ascertained systematic non-compliance with applicable requirements under Article 73 herein and/or with specific obligations;

2. ascertained material violation of this Act;

3. (amended, SG No. 20/2021) revoked individual right to use a limited resource.

(4) (Amended, SG No. 20/2021) The undertaking under Paragraph (3) may submit a notification for provision of the same electronic communication networks or services only in case where all the irregularities in the activity carried out, which were the grounds for adoption of a decision under Paragraph (3), have been eliminated.

(5) (New, SG No. 29/2015) The repealing of the decision of the commission under Paragraph 1 shall not stop its implementation unless the court rules otherwise.

(6) (New, SG No. 29/2015) The procedure under Paragraphs 1 – 4 shall be applied regardless of the administrative penal responsibility of the undertaking which shall be realized according to the general procedure.

(7) (New, SG No. 20/2021) Upon request of a national regulatory authority or another competent authority of a Member State of the European Union, in which the numbering resources under Article 133 (4) are used, when such national regulatory authority or another competent authority of a Member State of the European Union has proved a breach of the applicable consumer protection rules or the national law of the relevant Member State of the European Union related to the use of numbering resources, the Commission shall apply the conditions under Item 9 of Article 107 (2), in accordance with its powers, including, in more serious cases, by revoking the rights for extraterritorial use of the numbering resources provided to the respective undertaking.

**Article 78a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) In case of non-compliance of the applicable general requirements the obligations under the registrations or authorizations or the specific obligations imposed the Commission may, by decision, impose urgent measures to remedy any breaches that represent:

1. an immediate and serious threat to public safety, public security or public health, or

2. serious economic or operational problems for other providers or consumers of electronic communications networks or services or for other users of the radio spectrum.

(2) The Commission shall give the undertaking an opportunity to state its views and to propose any remedies for the breach. The Commission shall pronounce within fourteen days on the views and the measures proposed by the undertaking.

(3) The measures referred to in Paragraph (1) shall be imposed for a maximum period of three months. In case the procedures for remedying the breach have not been completed, this period may be extended by not more than three months.

(4) In case the undertaking implementing electronic communications fails to cease the non-compliance within the period referred to in Paragraph (3), the Commission shall impose a sanction according to this Act.

### **Section III**

#### **Granting of Authorization and Registration: General Provisions** **(Heading amended, SG No. 20/2021)**

**Article 79.** (Amended, SG No. 20/2021) Granting individual rights to use certain limited resource shall be through registration or authorisation.

**Article 80.** (1) (Amended and supplemented, SG No. 20/2021) The requirements for registration and granting of an authorization shall be the same for all persons wishing to implement the same type of electronic communications.

(2) (Amended, SG No. 20/2021) Registration and granting of authorization shall be carried out in compliance with the principles of objectivity, proportionality, equal treatment and transparency.

**Article 80a.** (New, SG No. 20/2021) (1) When granting, amending or extending individual rights to use radio frequency spectrum, the Commission shall promote efficient competition and avoid distortions of competition in the internal market and, may take measures such as:

1. limiting the quantity of radio frequency bands for which undertakings are granted rights of use or, in justified cases, laying down conditions for the rights of use when granting the said radio frequency bands, such as the conditions relating to the possibility of imposing wholesale or roaming access obligations in certain radio frequency bands or certain groups of radio frequency bands with similar characteristics;
2. maintaining, depending on market conditions, a certain part of a radio frequency band or group of radio frequency bands for the provision to new undertakings;
3. refusal to grant new rights to use the radio frequency spectrum or to authorize the new use of the radio frequency spectrum in certain radio frequency bands, or to impose conditions on the granting of new rights to use the radio frequency spectrum or on allowing new use of the radio frequency spectrum in order to avoid distortions of competition due to granting, transfer or accumulation of rights of use;
4. inclusion of conditions for prohibition or imposition of conditions for the transfer of rights for use of radio frequency spectrum, which are not subject to control by the European Union or the Republic of Bulgaria with regard to mergers when such transfers are likely to cause significant harm to competition;
5. modification of the existing rights in accordance with this Act when this is necessary for the subsequent elimination of the distortion of competition due to the transfer or accumulation of rights for use of radio frequency spectrum.

(2) The Commission shall determine the necessary measures under Paragraph (1) to maintain or ensure efficient competition, taking into account market conditions and available reference levels through objective assessment and forecast of market conditions of competition and the possible consequences of such measures on existing and future investments by market participants, in particular with regard to the deployment of networks.

(3) In determining the measures under Paragraph (1) the Commission shall take into account the approach for market analysis under Article 154 (3), the principles of consultation, publicity and transparency, and shall observe the requirements of Sections V and IX and Chapter Six.

(4) The measures under Paragraph (1) shall not be applied in respect of authorisations for use of radio frequency spectrum by electronic communication networks for terrestrial analogue broadcasting.

**Article 81.** (1) (Supplemented, SG No. 17/2009, amended, SG No. 20/2021) The Commission shall grant an authorization for use of radio frequency spectrum after conducting a contest or a tender where the number of candidates is greater than the number of persons eligible to obtain an authorization for the relevant available scarce resource.

(2) (Supplemented, SG No. 17/2009, amended, SG No. 20/2021) The Commission shall issue a permit without conducting a contest or tender for the use of radio frequency spectrum with a view to achieving the objectives under Articles 4 and 4a, in the following cases:

1. for own needs of the state bodies in connection with the functions thereof, and to diplomatic missions or other organizations enjoying the status of diplomatic missions;
2. for implementation of electronic communications for private needs;

3. where the number of candidates is smaller than or equal to the number of persons who or which are eligible to obtain an authorization for the relevant available scarce resource;
  4. (supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) for implementation of electronic communications through electronic communications networks for analogue terrestrial broadcasting, after decision by the Council for Electronic Media, with the exception of the cases under Articles 49a and 49b herein;
  5. where a provisional authorization under Article 109 herein is granted;
  6. (new, SG No. 20/2021) for granting individual rights for use of radio frequency spectrum to radio and television operators, when necessary to achieve a goal of common interest determined in accordance with the law of the European Union, after conducting public consultations under Article 37.
- (3) (Amended, SG No. 20/2021) The subject, scope and the term of validity of an authorization under Item 4 of Paragraph (2) may not differ from the subject, scope and term of validity of the licence issued by the Electronic Media Council.
- (4) (New, SG No. 17/2009, amended, SG No. 20/2021) The Commission shall grant an authorization for use of numbering resources without conducting a contest or tender.
- (5) (New, SG No. 20/2021) The Commission shall authorize the use of a geostationary orbit position with the relevant radio frequency spectrum and of radio frequency spectrum used by a non-geostationary satellite system, which are registered in international organizations in electronic communications at the initiative of a person, without conducting a contest or a tender.

**Article 82.** (1) (Amended, SG No. 20/2021) The applications for use of radio frequency spectrum, for implementation of electronic communications for private needs shall be granted without conduct of a contest or tender, and the resource shall be assigned for use to the applicant first in time to submit an application.

(2) The provision of Paragraph (1) shall furthermore apply in the cases where the scarce resource is required to ensure a conveyance medium in the networks of undertakings implementing public electronic communications.

(3) (New, SG No. 20/2021) Applications for registration shall be satisfied by providing for use the radio frequency spectrum at the first time requested.

**Article 83.** (1) (Amended, SG No. 17/2009, SG No. 20/2021) The procedures for registration and granting an authorisation shall start after submitting an application for use of a limited resource according to a standard form. Any such application shall contain:

1. identification data of the person requesting the granting of an authorization or registration:
  - (a) for natural persons: forename, patronymic and surname and permanent address;
  - (b) for legal entities and sole traders: name (company) and the relevant Identification code;
2. indication of the required radio frequency spectrum or numbering resources or, a geostationary orbital position with the relevant radio frequency spectrum;
3. a brief description of the type of electronic communications;
4. description of the technical characteristics of the electronic communications network and facilities;
5. description of the service or services to be provided by the person through the scarce resource where the said resource is designated for implementation of public electronic communications;
6. term for use of the limited resource;
7. territorial range;
8. contact person and details.

(2) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) An application shall be accompanied by:

1. for persons registered in another state: a document for the current registration under the national legislation and a document certifying that the person has not been declared bankrupt or is not in bankruptcy proceedings, issued by the competent authority of the relevant state of the person;
2. a declaration to the effect that the sole trader is not subject to a pending deregistration procedure;
3. a declaration by the CEO and the members of the management bodies of the person to the effect that they are not disqualified from carrying on commercial business;

4. a declaration for lack of grounds under Item 17 of Article 3 of the Economic and Financial Relations with Companies Registered in Preferential Tax Treatment Jurisdictions, the Persons Controlled Thereby and Their Beneficial Owners Act.

(3) The application and the accompanying documents shall be submitted in the Bulgarian language.

(4) Should any documents covered under Paragraphs (1) and (2) be missing and/or non-conforming, the Commission shall notify the applicant in writing to cure the deficiencies or non-conformities within 7 days after receipt of the notification. In case of a failure to cure the deficiencies or non-conformities within the time limit as allowed, the application shall not be considered.

**Article 84.** (1) The Commission shall refuse to grant an authorization by reasoned decision where:

1. (supplemented, SG No. 105/2011, effective 29.12.2011) a scarce resource is not available, including where not coordinated at national level or, where necessary, at international level;

2. the use of the scarce resource would jeopardize national security or is contrary to international obligations arising from an effective international treaty whereto the Republic of Bulgaria is a party;

3. the person who or which applies for an authorization:

(a) is adjudicated bankrupt or is subject to pending bankruptcy proceedings or is being wound up;

(b) is disqualified from carrying on commercial business;

(c) (amended, SG No. 17/2009) incurs any public obligations to the State, including to the Commission and to social insurance funds, established by an effective act of a competent authority, save as where a rescheduling or deferral of the said obligations has been allowed;

(d) (amended, SG No. 20/2021) has had its authorization for use of scarce resource revoked for the same type of electronic communications for the period determined by the Commission.

(2) (Amended, SG No. 105/2020, effective 1.01.2021) The circumstances under Paragraph 1, Item 3, letter "a" shall be certified with a document by the respective competent authority, under letter "b" - with a declaration by the natural person, and under letter "c" - by the Commission in accordance with the procedure of Article 87, Paragraph 11 of the Tax and Social Insurance Procedure Code.

(3) The provision of Item 3 (b) of Paragraph (3) shall furthermore apply to managing directors or members of management bodies of the undertaking.

**Article 85.** (Amended, SG No. 20/2021) (1) In case of incompleteness of the application for registration, within 7 days from its receipt the Commission shall notify the person to eliminate the incompleteness thereof, giving the person 7 days from receipt of the notification.

(2) The Commission shall enter the person in the register referred to in Item 3 of Article 33 (1) herein within 20 days from the date of receipt of the notification or of curing of the deficiencies.

(3) The Commission shall refuse registration when the circumstances under Article 84 (1) are available.

(4) The person under Paragraph 2 may request in writing from the Commission issuance of a certificate for entry in the register under Item 3 of Article 33 (1). The Commission shall enter the following circumstances in the certificate:

1. Identification data of the person:

(a) of legal entities and sole traders: name (company) and the relevant Unified Identification Code;

(b) of natural persons: forename, patronymic and surname;

2. radio frequency spectrum provided, technical and operational parameters;

3. date and term of validity of registration.

(5) The Commission shall issue the certificate referred to in Paragraph (4) within 7 days from receipt of the request.

(6) For issuing a certificate under Paragraph (4) an administrative fee shall be paid in an amount determined in the tariff under Article 147.

(7) The registration is deregistered at the explicit request of the person.

(8) The Commission shall deregister a registration in the following cases:

1. in established systemic non-fulfilment of the rules under Article 66a (3);

2. where an inspection by the Commission ascertains the presence of a circumstance under Item 3 (a), (b) and (c) of Article 84 (1).

(9) Deregistration shall also be made in case:

1. of a reasoned written request from a competent authority upon ascertained actions by the registered person which jeopardize the national security in using the assigned scarce resource as provided thereto by the registration;
2. where a registered person declares existence of any of the circumstances referred to in Item 3 (a), (b) and (c) of Article 84 (1) herein;
3. upon death of the natural person, liquidation or termination of the legal entity or termination of the activity of the sole trader;
4. on the grounds of an obligation arising from a ratified international agreement which has entered into force and whereto the Republic of Bulgaria is a party.

(10) The deregistration in the cases of Item 1 of Paragraph (9) shall be subject to immediate execution.

(11) With regard to the registrations in the applicable rules under Article 66a (3) all or some of the conditions under Article 106 (2) shall be included.

(12) The rights of use acquired through registration shall not be subject to transfer and rental or, extension of the term thereof.

(13) A registration shall be modified according to the procedure established by Article 115.

(14) A registered person may submit a request for modification in the registration thereof, except for the cases under Article 115 (1). The Commission shall examine the request, assess the need to modify the registration and effect the change within 20 days of receipt of the request.

#### **Section IV**

#### **Granting of Authorization for Use of Scarce Resource (Heading amended, SG No. 20/2021)**

**Article 86.** (1) (Amended, SG No. 20/2021) The Commission shall adopt a decision on the granting of an authorization for use of radio frequency spectrum, within six weeks from the receipt of the application or from remedying the deficiencies in case no international coordination is required of the radio frequencies and the radio frequency bands, as well as of the technical characteristics of the radio equipment which will use the said frequencies and bands.

(2) (Amended, SG No. 20/2021) Where an application has been submitted for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum, which requires international coordination of the radio frequencies and the radio frequency bands as well as the technical characteristics of the radio equipment which will use the said frequencies and bands, the Commission shall perform the said coordination within 8 months from the date of submission of the application notifying thereby, within 7 days from submission of the application, of the need of coordination.

(3) In case an international instrument, whereto the Republic of Bulgaria is a party, establishes a time limit for coordination under Paragraph (2) and the said time limit is longer than 8 months, the coordination procedure shall be conducted within the time limit established by the international instrument.

(4) (New, SG No. 20/2021) Where fees for carrying out the international coordination and registration are determined in an international act under Paragraph (3), their payment shall be made according to the rules under Article 127 (2).

(5) (Renumbered from Paragraph (4), amended, SG No. 20/2021) After conclusion of the coordination procedure under Paragraph (2), within one month the Commission shall notify the applicant of the result.

(6) (Renumbered from Paragraph (5), amended and supplemented, SG No. 20/2021) Within 14 days from the receipt of the notification, the applicant must confirm in writing its wish to obtain the permit for use of a limited resource according to the result of the completed procedure for international coordination under Paragraph (2).

(7) (Supplemented, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (6), amended, SG No. 20/2021) In case the applicant confirms the wish thereof within the time limit

under Paragraph (6), within 14 days the Commission shall adopt a decision on granting of an authorization for use of radio frequency spectrum.

(8) (New, SG No. 20/2021) The terms under Paragraphs 1 – 7 shall not apply to the applicable provisions of international agreements related to the use of radio frequency spectrum and satellite coordination.

**Article 87.** (1) (Amended, SG No. 20/2021) The Commission shall notify the applicant in writing within three days from adoption of the decision on the granting of an authorization for use of radio frequency spectrum.

(2) Within fourteen days after receipt of the notification referred to in Paragraph (1), the applicant shall remit the fees due to an account of the Commission.

**Article 88.** (1) (Amended, SG No. 20/2021) The Commission shall adopt a decision on the granting of an authorization for use of numbering resources within three weeks from the date of receipt of the application or remedy of the deficiencies.

(2) The Commission shall notify the applicant in writing within three days after adoption of the decision referred to in Paragraph (1).

(3) Within fourteen days after receipt of the notification referred to in Paragraph (2), the applicant shall remit the fees due to an account of the Commission.

## **Section V**

### **Granting of Authorization for Use of Radio Frequency Spectrum or Geostationary Orbital Position with the Relevant Radio Frequency Spectrum Allocated to the Republic of Bulgaria Pursuant to International Agreements after Contest or Tender**

**(Heading amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021)**

**Article 89.** (Amended, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The Commission may, on its own initiative, announce its intention to hold a contest or tender for the use of a specific radio frequency spectrum in case of need to limit the number of the authorisations issued or, for the use of a specific geostationary orbit position with the relevant radio frequency spectrum, except in the cases under Article 81 (5).

(2) Alternatively, the Commission shall announce an intention to conduct a contest or a tender on the initiative of an interested party.

(3) (New, SG No. 20/2021) The contest or the tender under Paragraphs 1 and 2 shall be completed within 8 months, observing all the time-limits under Article 124b. This term shall not apply to the operative provisions of international agreements related to the use of radio frequency spectrum and satellite coordination.

**Article 89a.** (New, SG No. 20/2021) (1) When announcing its intention to hold a contest or tender for the use of harmonized radio frequency spectrum for wireless broadband networks and services for which harmonized conditions have been established through technical implementing measures in accordance with Decision № 676/2002/EC, the Commission shall inform the Radio Spectrum Policy Group for each draft measure which falls within the scope of the procedure under Article 89.

(2) When providing the information under Paragraph (1), the Commission may request the Radio Spectrum Policy Group to convene a peer review forum, indicating thereby the period of its conducting.

(3) During the peer review forum the Commission should provide an explanation how the draft measure:

1. stimulates the development of the internal market, cross-border provision of services and competition;
2. provides the greatest possible benefits for consumers;
3. achieves the objectives related to the management and use of the radio frequency spectrum and the conditions of the authorisations for use of the radio frequency spectrum and, in general the objectives under Articles 4 and 4a;
4. ensures the efficient and effective use of the radio spectrum;



5. provides stable and predictable investment conditions for existing and future users of the radio frequency spectrum in the deployment of networks for the provision of electronic communications services.

(4) The Commission may request the Radio Spectrum Policy Group to adopt a report on the manner in which the draft measure under Paragraph (1) achieves the objectives under Paragraph (3), which reflects the exchange of views within the peer review forum, as well as an opinion on the draft measure after the peer review forum.

**Article 90.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The number of authorizations granted for use of a particular radio spectrum or geostationary orbital position may be limited for reasons of maximizing user benefits and promoting competition, as well as for the purpose of:

1. achieving greater coverage;
2. ensure the required quality of service;
3. promoting the efficient use of radio frequency spectrum, including taking into account the conditions relating to rights of use and the amount of fees; or
4. promoting innovation and business development.

(2) (Amended and supplemented, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission shall conduct public consultations under Article 37 within a term, not shorter than 30 days, regarding the announced intention under Article 89, publishing thereby a notice on its website and on the Public Consultation Portal. The announcement shall contain:

1. the radio frequency spectrum or the geostationary orbital position with the respective radio frequency spectrum, except for the cases under Article 81 (5) for which authorisations may be issued;
2. reasons for the choice of a procedure under Article 89, and where applicable, the imposed limit on the number of authorizations for use of radio frequency spectrum that may be issued;
3. the conditions which the Commission intends to impose in respect of the authorization for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum;
4. an invitation to submit an intention to use radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum, within a time limit set out by the Commission which may not be shorter than the time limit for conducting a public consultation.
5. results of related assessments of the competitiveness and technical and economic situation of the market;
6. grounds for using the forum for peer review under Article 89a (2), and selection of measures under Article 89a (4) in case such are provided.

(3) (New, SG No. 20/2021) When the restriction under Paragraph (1) refers to the use of harmonized radio frequency spectrum for wireless broadband networks and services, simultaneously with the publication of the communication under Paragraph (2) the Commission shall undertake the actions under Article 89a (1).

(4) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (3), SG No. 20/2021) The Commission shall make public the results of consulting the public and the decision thereof on the Internet site thereof. Depending on the decision, the Commission shall:

1. announce a contest or tender according to the procedure established by Article 93 herein, in case the number of intentions submitted under Paragraph (2) is greater than the number of authorizations which may be granted by the Commission;
2. (supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) take actions for granting of an authorization for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum, except the cases under Article 81 (5) after submission of an application under Article 83 herein within the time limit set out by the Commission, in case the number of intentions submitted under Paragraph (2) is smaller than or equal to the number of authorizations which may be granted by the Commission.

(5) (Supplemented, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (4), amended, SG No. 20/2021) The Commission must, at regular intervals or on the basis of reasonable requests received from affected persons, review the topical relevance of the reasons which have necessitated the limitation of the number of authorizations for use of radio frequency spectrum.

(6) (Renumbered from Paragraph (5), supplemented, SG No. 20/2021) The Commission shall conduct public consultations under Article 37 with interested parties regarding the review.

(7) (Supplemented, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (7), amended, SG No. 20/2021) In case that as a result of the public consultations under Paragraph (6) it is established that additional rights for use of radio frequency spectrum may be granted or the use of radio frequency spectrum may be allowed on the basis of a combination of free use, post-registration use or post-authorization use, the Commission shall announce the results from the conducted public consultations and its decision thereof on its website. Depending on the decision, the Commission shall take actions to conduct a procedure under Items 1 or 2 Paragraph (4) or, to amend and supplement the rules under Article 66a (3).

**Article 91.** (1) (Amended, SG No. 20/2021) After submitting an application under Article 83 on the initiative of an interested person for issuing an authorisation for use of radio frequency spectrum for implementation of public electronic communications or a geostationary orbital position with the relevant radio frequency spectrum, except for the cases under Article 81 (5) and after completion of the international coordination, where necessary, within 5 days the Commission shall publish a notice on its website and on the Public Consultation Portal. Where the scarce resource applied for is within a national range, the Commission shall furthermore publish the announcement in the State Gazette within 10 days. The announcement shall contain:

1. (supplemented, SG No. 20/2021) information on the requested limited resource and on the free radio spectrum in the same radio frequency band, if any;

2. (amended, SG No. 20/2021) invitation to submit other applications for the use of the same limited resource or available radio frequency spectrum in the same radio frequency range within 21 days from the date of publication of the notice on the Public Consultation Portal and, when the requested limited resource is of national coverage – from the date of the publication thereof in the State Gazette; the invitation shall include the conditions which the Commission intends to impose in respect of the authorization for use of radio frequency spectrum or the geostationary orbital position with the relevant radio frequency spectrum.

(2) (Amended, SG No. 20/2021) If within the term under Item 2 of Paragraph (1) the Commission has not received another application for use of the same limited resource or, the available radio frequency spectrum is sufficient to satisfy the applications received, the Commission, within 10 days, shall adopt a decision(s) to issue an authorisation(s) for use of radio frequency spectrum or geostationary orbital position with the relevant radio frequency spectrum.

(3) The Commission shall notify the applicant in writing within three days after adoption of the decision referred to in Paragraph (2).

(4) Within 14 days after receipt of the notification referred to in Paragraph (3), the applicant shall remit the fees due to an account of the Commission.

(5) (Amended, SG No. 17/2009) The undertaking shall receive the authorization after payment of the fees due.

**Article 92.** (Repealed, SG No. 17/2009).

**Article 93.** (1) (Amended, SG No. 17/2009, supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) In case the available scarce resource – radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum – is insufficient for use by all persons which have submitted an intention under Item 4 of Article 90 (2) herein or an application within the time limit referred to in Item 2 of Article 91(1) herein, the Commission shall notify all applicants of the intentions or applications submitted and of the number thereof and shall announce, by decision, a contest or a tender.

(2) The decision referred to in Paragraph (1) shall contain:

1. (supplemented, SG No. 20/2021) subject and type of the contest or tender and the conditions which the Commission will impose in respect of the authorization for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum;
2. (amended and supplemented, SG No. 20/2021) objective, transparent, proportional and non-discriminatory requirements to the persons who may participate, reflecting the conditions under Item 1, including those referring to technical or financial conditions or to conditions for compliance with competition;
3. place, period and procedure for purchase of the contest or tender documents;
4. time limit and place for submission of an application for entry;
5. amount and manner of payment of a deposit for entry;
6. initial tender price and bidding increment upon announcement of a tender;
7. date, place and time of conduct of the contest or tender;
8. other specific requirements related to the contest or tender procedure.

(3) (Amended and supplemented, SG No. 17/2009, amended, SG No. 20/2021) The decision under Paragraph (1) shall be posted on the Internet site of the Commission and shall be promulgated in the State Gazette not later than 21 days after the expiry of the time limit for submission of intentions or applications for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum.

(4) (Repealed, SG No. 17/2009).

**Article 94.** (1) A contest shall be held where an integral evaluation is needed for the granting of an authorization.

(2) A tender shall be held in the cases where, considering the nature of the implementation of public electronic communications, the amount of the tender price offered is of substantial importance.

**Article 95.** (1) (Amended, SG No. 17/2009) The initial tender price upon conduct of a tender shall be determined by the Commission by the decision referred to in Article 93 (2) herein.

(2) The bidding increment upon conduct of a tender shall be determined by the Commission in the tender documents.

(3) The amount reached in the bidding shall be paid by the winning bidder within a time limit determined by the decision referred to in Paragraph (1).

**Article 96.** (1) The contest documents shall be adopted by decision of the Commission and shall contain:

1. information in the scarce resource which is subject of the contest;
2. a list of the required attachments to the application for entry in the contest;
3. (amended, SG No. 105/2011, effective 29.12.2011) requirements for implementation of public electronic communications which is subject of the contest, such as: pace of development and/of service, quality of service, applicable technologies, obligations related to national security;
4. (amended, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) objective, transparent, non-discriminatory and proportionate evaluation criteria, the relative weight of the said criteria and a mechanism of evaluation, respecting the principles relating to management of the radio spectrum with a view to attaining the purposes under Articles 4 and 4a herein;
5. rules for conduct of the contest;
6. rules of procedure of the expert committee for conduct of the contest;
7. amount of the deposit for entry in the contest.

(2) (Amended, SG No. 20/2021) The contest documents shall furthermore contain conditions for entry in the contest and a draft of an authorization for use of radio frequency spectrum and geostationary orbital position with the relevant radio frequency spectrum and, attachments containing the relevant technical parameters for the authorizations.

**Article 97.** The tender documents shall be adopted by decision of the Commission and shall contain:

1. information in the scarce resource which is subject of the tender;
2. a list of the required attachments to the application for entry in the tender;
3. rules for conduct of the tender;

4. rules of procedure of the expert committee for conduct of the tender;
5. (amended, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) objective, transparent, non-discriminatory and proportionate criteria for non-admission to and removal from a tender complying with the requirements related to the management of the radio spectrum, with a view to attaining the purposes covered under Articles 4 and 4a herein;
6. (amended, SG No. 20/2021) a draft authorization for use of radio frequency spectrum or geostationary orbital position with the relevant radio frequency spectrum and, attachments containing the relevant technical parameters for the authorizations;
7. amount of the deposit for entry in the tender, which may not be larger than 5 per cent of the fixed initial tender price, as well as conditions related to the deposit for entry in the tender;
8. place, date and time of conduct of the tender.

**Article 98.** (1) (Amended, SG No. 20/2021) The contest or tender for provision of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum shall be held not earlier than 30 days from promulgation of the decision under Article 93 (3) herein in the State Gazette. In case several contests or tenders are announced, depending on the available scarce resource, the Commission shall determine the sequence of the conduct thereof. The Commission may alternatively conduct a single tender or contest, granting thereby multiple authorizations depending on the available scarce resource.

(2) (Repealed, SG No. 17/2009).

**Article 99.** (1) (Supplemented, SG No. 17/2009) The Commission shall appoint an expert committee for conduct of a contest or a tender, whereof at least one of the members shall be a qualified lawyer. Representatives of the interested central-government departments and of the Commission may participate as members of the expert committee. The expert committee shall mandatorily include a representative of the State Agency for National Security.

(2) A person who has a material commercial, financial or other business interest may not participate as a member of the expert committee.

(3) A material commercial, financial or other business interest shall always exist where the members of the expert committee or family members thereof, including spouses, any lineal relatives thereof up to any degree of consanguinity, any collateral relatives thereof up to the fourth degree of consanguinity and any affines thereof up to the second degree of affinity, as well as parties economically related thereto, are granted an authorization under this Act.

(4) Each member of the expert committee shall be obligated to declare in writing to the Commission the non-existence of a material commercial, financial or other business interest, which the said member and/or any parties economically related thereto or to any family members thereof have in the selection of a particular candidate and that they will not be appointed to management bodies of the candidate winning the contest or the tender within one year after the granting of the authorization.

(5) The declarations referred to in Paragraph (4) shall be kept in a special public register with the Commission.

(6) The members of the expert committee shall be obligated not to disseminate to third parties any information received in the course of a procedure for conduct of a contest or a tender. Prior to commencement of the procedure, each member of the expert committee shall sign a declaration pledging observance of this obligation.

**Article 100.** (1) (Supplemented, SG No. 20/2021) Persons wishing to enter a contest or a tender announced by the Commission shall submit a written application for entry indicating their identification data, attaching thereto:

1. (amended, SG No. 17/2009, No. 20/2021) a document attesting to the existence and the current legal status of the person where the applicant does not hold a Unified Identification Code under Article 23 of The Commercial Register and Register of Non-Profit Legal Persons Act;
2. (supplemented, SG No. 20/2021) evidence of financial capabilities, such as: annual balance sheet and income statement (unless declared in the commercial register and the register of non-profit legal entities), annual tax returns, bank recommendations, documents for acquisition of fixed assets;

3. a technical project and a business plan in accordance with the requirements of Item 3 of Article 96 (1) herein;
  4. documentary proof of remittance of a deposit or a bank guarantee to the amount of the deposit;
  5. (amended, SG No. 105/2020, effective 1.01.2021) documents certifying the absence of the circumstances under Items 3(a) and 3(b) of Article 84 (1);
  6. a declaration on safeguarding the confidentiality of the information contained in the contest or tender documents;
  7. (repealed, SG No. 20/2021);
  8. other documents related to the subject of the contest or tender.
- (2) All documents shall be submitted in the Bulgarian language.
- (3) (Amended, SG No. 20/2021) In case of missing and/or non-conforming documents under Paragraph (1), except those under Item 3 of Paragraph (1), the bidder shall be notified in writing to eliminate the deficiencies or non-conformities, giving the said bidder 10 days from receipt of the notification. In case of a failure to cure the deficiencies or non-conformities within the time limit as allowed, the candidate shall not be admitted to entry.
- (4) A person wishing to enter a contest or tender announced by the Commission shall not be admitted to entry where the said person:
1. is adjudicated bankrupt or is subject to pending bankruptcy proceedings or is being wound up;
  2. is disqualified from carrying on commercial business;
  3. incurs public pecuniary obligations to the State, established by an effective act of a competent authority, or an obligation to social insurance funds, save as where a rescheduling or deferral of the said obligations has been allowed;
  4. (amended, SG No. 20/2021) has been revoked an authorisation for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum for the same type of electronic communications for the term determined by the Commission.
- (5) (New, SG No. 17/2009, amended, SG No. 20/2021) In case the number of applications submitted is smaller than or equal to the number of authorizations which are subject to the decision under Article 93 (2) herein, the Commission shall declare by decision the procedure concluded and within 10 days shall grant an authorization for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum. Within three days after adoption of the decision declaring the procedure concluded, the Commission shall transmit the said decision to the State Gazette for promulgation within 5 days after receipt of the said decision.
- (6) (New, SG No. 17/2009) In case not a single application has been received within the time limit referred to in Item 4 of Article 93 (2) herein, the Commission shall terminate the procedure as announced by decision. Within three days after adoption of the decision on termination of the procedure as announced, the Commission shall transmit the said decision to the State Gazette for promulgation within five days after receipt of the said decision.
- (7) (New, SG No. 105/2020, effective 1.01.2021) The circumstance under Paragraph 4, Item 3 shall be established by the Commission under the procedure of Article 87, Paragraph 11 of the Tax and Social Insurance Procedure Code.

**Article 101.** (1) In a contest, the offers shall be ranked on the basis of an integral evaluation of satisfaction of the contest requirements.

(2) In a tender, the candidates shall be ranked according to the amount of the tender price offered.

**Article 102.** (1) Within seven days after completion of the work thereof, the expert committee shall present to the Commission a report on the work done and on the results of the ranking, as well as the entire documentation on the contest or tender held.

(2) (Supplemented, SG No. 20/2021) Within 14 days from receipt of the documents under Paragraph (1), the Commission shall adopt a reasoned decision on:

1. granting of an authorization to the candidate who or which has won the contest or tender;
2. termination of the contest or tender without determining a winning candidate, where the results of the rankings do not indicate a candidate who or which satisfies the requirements of the contest or tender held.

(3) Within three days after adoption of the decision referred to in Paragraph (2), the Commission shall transmit the said decision to the State Gazette for promulgation within five days after receipt of the said decision.

**Article 103.** (1) (Supplemented, SG No. 105/2011, effective 29.12.2011) The Commission shall have the right to retain the deposits of the candidates who or which have lodged appeals against the decision referred to in Article 102 (2) herein and/or Article 104 (1) herein until settlement of the dispute by the court.

(2) (Amended, SG No. 105/2011, effective 29.12.2011) The deposits of the candidates who or which have not won shall be released within up to seven working days after expiry of the time limit for lodgement of an appeal against the decision referred to in Article 104 (1) herein. The deposits of all candidates shall be released within the same time limit upon termination of the procedure.

(3) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011) The deposits of the winning candidate and of the candidate ranked second shall be released within up to seven working days after the entry into effect of the decisions referred to in Item 1 of Article 102 (2) herein and Article 104 (1) herein.

**Article 104.** (1) The Commission shall grant an authorization to the candidate who or which has won the contest or tender within fourteen days after the entry into effect of the decision referred to in Item 1 of Article 102 (2) herein.

(2) The winning candidate shall be bound by the offers made in the contest or tender.

(3) (New, SG No. 17/2009, amended, SG No. 20/2021) Upon granting of the authorization under Item 2 of Article 90 (4) and Article 100 (1) and (5), the person shall be entered in the register under Item 1 of Article 33 (1) herein.

**Article 105.** (1) In case the winning candidate declines the granting of an authorization or fails to pay the final tender price offered thereby within the time limit and in the manner specified in the tender or contest documents, the authorization shall be offered to the second ranked candidate.

(2) Should the second ranked candidate decline as well, the procedure shall be terminated without the granting of an authorization.

(3) In the cases where two or more authorizations are the subject of a tender and a ranked candidate declines the granting of an authorization or fails to pay the final tender price offered thereby within the time limit and in the manner specified in the tender documents, the said authorization shall be offered to the candidate ranked next. In case the said candidate declines as well, the procedure shall be terminated without the granting of an authorization.

(4) The deposits of the persons referred to in Paragraphs (1), (2) and (3) shall not be returned.

## **Section VI**

### **Content of Authorization**

**Article 106.** (Amended, SG No.17/2009, No.35/2009, effective 12.05.2009, amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) The authorizations for use of radio frequency spectrum and a geostationary orbital position with the relevant radio frequency spectrum contain:

1. radio frequency spectrum provided or geostationary orbital position with the relevant radio frequency spectrum;
2. the territorial coverage, where applicable;
3. identification data;
4. the date of granting of the authorization.

(2) The permits under paragraph 1 shall include all or some of the following conditions:

1. obligation to provide a service or to use a type of technology in accordance with Article 130 and requirements for coverage and quality of the service, if such requirements are set out;
2. conditions for ensuring efficient and effective use of the radio frequency spectrum in accordance with this Act;
3. technical and operational conditions to avoid harmful interference and to protect public health from the harmful effect of electromagnetic fields, taking into account as far as possible the

requirements for limiting the exposure of the population to electromagnetic fields, where the conditions differ from the general requirements under Article 73;

4. maximum term in accordance with Articles 71 and 71a, which may be amended in accordance with the National Spectrum Allocation Plan;

5. possibility and conditions for transfer or rental of rights under the authorisation upon request of the right holder;

6. fee for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum in accordance with Articles 143 and 146;

7. all the commitments of an undertaking, which receives rights to use the radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum, undertaken in a procedure for issuing or extending the term of validity of an authorisation, before issuing the authorisation or before the invitation to submit an intention or application for use of radio frequency spectrum or geostationary orbital position with the relevant radio frequency spectrum;

8. obligations for consolidation or sharing of radio frequency spectrum, or for granting access to the radio frequency spectrum to other users on the territory of the country or part thereof;

9. obligations arising from international agreements which regulate the use of the radio frequency spectrum;

10. obligations related to the experimental use of radio frequency spectrum.

**Article 106a.** (New, SG No. 20/2021))(1) The Commission shall determine the conditions for use of radio frequency spectrum under Article 106 (2) so as to ensure the optimal and most efficient and effective use of the radio frequency spectrum prior to granting the rights or extension of the term of the rights granted. The conditions shall also include the level of use required and the ability to meet such requirement by transferring or leasing the radio frequency spectrum to ensure compliance of the said conditions. The conditions for extension of the rights to use radio frequency spectrum may not confer unlawful advantages on the holders of the granted rights.

(2) The conditions under Paragraph 1 shall set out the applicable parameters, including a deadline for the rights exercised for use of radio frequency spectrum whose non-observance shall entitle the Commission to revoke the right of use or to impose other measures.

(3) The Commission shall conduct public consultations under Article 37 on the conditions related to the individual rights for use of radio frequency spectrum and the criteria for assessment of the fulfilment of such conditions before their imposition.

(4) In order to ensure efficient and effective use of the radio frequency spectrum or to encourage the increase of the coverage in determining the conditions for the individual rights for use of the radio frequency spectrum the Commission may envisage conditions related to the possibilities for:

1. imposing obligations for sharing of physical infrastructure or active elements of electronic communications networks based on radio frequency spectrum or, shared use of radio frequency spectrum;

2. imposing obligations to conclude roaming access agreements;

3. joint deployment of infrastructures for provision of networks or services based on the use of radio frequency spectrum.

(5) In the conditions related to the rights for use of radio frequency spectrum, the Commission shall not prevent the shared use of radio frequency spectrum.

(6) The Commission shall apply the law in the field of competition regarding the fulfilment by the undertakings of the conditions under Paragraph (4) in compliance with the principles of consultation, publicity and transparency.

**Article 107.** (Amended and supplemented, SG No. 17/2009, No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) The authorisations for use of numbering resources shall contain:

1. granted numbering resources;

2. identification data;

3. the date of granting of the authorization.

(2) Authorisations for the use of numbering resources shall include all or some of the following conditions:

1. the service for which the numbering resources are used, including the requirements related to the provision of such service as well as the requirements for transparency of tariff principles and maximum prices that can be applied in a specific numbering range to guarantee consumer protection under Item 4 of Article 4 (1);
2. requirements for efficient and effective use of numbering resources in accordance with this Act;
3. number portability requirements in accordance with this Act;
4. obligation to provide information about end users included, with their explicit consent, in a telephone directory for the purposes of Article 258;
5. maximum term in accordance with Article 71;
6. a possibility and conditions for the transfer of rights under the authorisation upon request of the right holder, including the condition that the right to use numbering resources is binding on all undertakings to which the rights are transferred;
7. fee for use of numbering resources in accordance with Article 143;
8. obligations arising from international agreements which regulate the use of numbering resources;
9. obligations relating to extraterritorial use of numbering resources within the European Union in order to ensure compliance with consumer protection rules and other rules relating to the use of numbering resources in the Member States of the European Union where such resources will be used.

**Article 108.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) Apart from the obligations under Article 106 (2) or Article 107 (2) herein, the undertakings which have obtained an authorization for use of scarce resource shall furthermore be obligated to comply with the applicable requirements established under Article 73 herein.

## **Section VII**

### **Provisional Authorizations**

**Article 109.** (1) (Amended, SG No. 21/2018, effective 9.03.2018, SG No. 20/2021) The Commission shall issue provisional authorizations for the use of radio frequency spectrum in the following cases:

1. for experimental use;
2. for short-term projects or;
3. for short-term events.

(2) A provisional authorization shall be granted without a contest or a tender.

(3) (Amended, SG No. 20/2021) A provisional authorisation shall not be issued for radio frequency spectrum for which individual rights of use have already been granted by an authorisation or on the basis of registration or, for which an application for rights of use has been submitted and the procedure for granting such rights has not been completed, as well as where the granting of rights for use of radio frequency spectrum contradicts the requirements for management of the radio frequency spectrum under Articles 124 and 128.

(4) (New, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) A provisional authorization under Item 1 of Paragraph 1 shall be granted once within one year for a period not exceeding 6 months.

(5) (New, SG No. 20/2021) A provisional authorisation under Item 2 of Paragraph (1) shall be issued for a term not longer than 12 months.

(6) (New, SG No. 20/2021) A provisional authorisation under Item 3 of Paragraph (1) shall be issued for the term and the territorial scope necessary for conducting the short-term event, but not for more than three months.

(7) (New, SG No. 20/2021) The term and territorial scope of each provisional authorisation shall be determined by the Commission on a case-by-case basis, taking into account the purpose for which the provisional authorisation is issued. When the Commission considers that the term or the territorial scope indicated in the application under Paragraph 8 do not correspond to the data for the purpose of the requested radio frequency spectrum, according to the justification under Paragraph (8), the



Commission shall give the opportunity to the applicant, within 7 days, to indicate an appropriate term or to provide additional data. Where the applicant fails to exercise its right under sentence two, the Commission shall, by a reasoned decision refuse to issue a provisional authorisation.

(8) (Renumbered from Paragraph (4), SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (5), amended, SG No. 20/2021) An application shall be submitted for granting a provisional authorisation which contains the data under Article 83 (1) and a detailed justification for the need to use the requested radio frequency spectrum and the granting of a provisional authorisation for the cases set out in Paragraph (1). The documents referred to in Item 1 of Article 83 (2) herein shall be attached to the application. If the application is deficient, the rules under Article 83 (4) herein shall apply.

(9) (Renumbered from Paragraph (5), SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (6), amended, SG No. 20/2021) In case the scarce resource applied for is subject to international co-ordination, the Commission shall offer the applicant another scarce resource which is not subject to international coordination, conforming to:

1. the data presented in the application for the cases indicated in Paragraph (1), and
2. the technical characteristics of the electronic communications network and the facilities for which the scarce resource will be used.

(10) (Renumbered from Paragraph (6), amended, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (7), amended, SG No. 20/2021) The Commission shall adopt a decision on the granting of a provisional authorization within 21 days from the date of receipt of the application or remedy of the deficiencies. Upon the pronouncing the Commission shall examine the justification of the request for a provisional authorisation, taking into account:

1. the need to issue a provisional authorisation on a case-by-case basis;
2. the need for the declared territorial scope and the term of validity of the authorisation;
3. consumer benefits and the need to promote competition and the development of new technologies;
4. the requirements for radio frequency spectrum management under Articles 124 and 128.

(11) (Renumbered from Paragraph (7), amended, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (8), amended, SG No. 20/2021) Within three days from the granting of a provisional authorization, the Commission shall notify the applicant of the authorization indicating thereby the amount of the fee due by the applicant for temporary use of radio frequency spectrum and a one-time fee for granting of an authorization. The applicant shall be obligated to remit the fees within 7 days after receipt of the notification.

(12) (Renumbered from Paragraph (8), amended, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (9), amended, SG No. 20/2021) The Commission shall deliver the authorization to the applicant within three days after remittance of the fees referred to in Paragraph (11).

**Article 110.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The provisional authorization shall contain the data stated in the application under Article 109 (8) and in the decision under Article 109 (10) herein.

(2) (Amended, SG No. 20/2021) The radio frequency spectrum provided may be used only for the purpose and in the manner explicitly set out in the provisional authorization.

(3) (New, SG No. 20/2021) An undertaking which has been granted a provisional authorisation for the use of radio frequency spectrum through an electronic communications network for terrestrial digital broadcasting may broadcast only an unmodulated carrier signal.

**Article 111.** (1) (Amended, SG No. 20/2021) The rules for transfer, rental, termination or revocation of the authorisations issued under this Act shall not apply to provisional authorisations.

(2) (Amended, SG No. 20/2021) The validity of a provisional authorization shall be terminated by the Commission immediately where it is ascertained that the radio frequency spectrum provided is not used for the intended purpose and in the manner determined in the provisional authorization.

**Article 112.** An undertaking whereof the validity of a provisional authorization has been terminated under Article 111 (2) herein may not submit an application for the granting of a new

provisional authorization within six months after the date of termination of the previous authorization.

## **Section VIII**

### **Provision of Supplementary Scarce Resource**

**Article 113.** (1) (Supplemented, SG No. 17/2009, amended, SG No. 20/2021) An undertaking implementing public electronic communications, which has been granted an authorization for use of radio frequency spectrum or numbering resources may apply for use of a supplementary scarce resource. The said undertaking shall submit an application which, in addition to the data covered under Article 83 herein, shall state:

1. the number and date of granting the initial authorization;
2. (amended, SG No. 20/2021) the electronic communications networks or services for the provision of which the supplementary radio frequency spectrum or numbering resource will be used;
3. (amended, SG No. 20/2021) indication of the supplementary radio frequency spectrum or numbering resource for the use thereof a modification and supplementation of the authorization is requested;
4. (amended, SG No. 20/2021) the term of use of the additional radio frequency spectrum or numbering resource, which may not be longer than the term of use of the initial radio frequency spectrum or numbering resource;
5. (new, SG No. 17/2009, amended, SG No. 20/2021) data for efficient utilization of the already provided radio frequency spectrum or numbering resource.

(2) (Amended, SG No. 20/2021) The electronic communications networks or services referred to in Item 2 of Paragraph (1) may not differ from the electronic communications networks or services for which the initial radio frequency spectrum or numbering resource has been provided.

(3) (Amended, SG No. 20/2021) The application shall be accompanied by documents and data justifying the need to use supplementary radio frequency spectrum or numbering resource.

(4) (Amended, SG No. 20/2021) The Commission shall provide the requested supplementary radio frequency spectrum or numbering resource where:

1. the undertaking has proved the need of such resource for expansion, modernization and development of its own electronic communications network, when implements public electronic communications over such network, and
2. (amended, SG No. 20/2021) the undertaking has already efficiently used the scarce resource provided;
3. (repealed, SG No. 20/2021).

(5) (New, SG No. 20/2021) Within one month from receipt of the application the Commission shall hold consultations with the undertakings for provision of the relevant supplementary radio frequency spectrum according to the regulatory policy under Item 1(a) of Article 32 (1).

(6) (Renumbered from Paragraph (5), amended and supplemented, SG No. 20/2021) The supplementary radio frequency spectrum or numbering resource shall be granted without a competition or tender conducted, except in the cases under Paragraph (7) herein.

(7) (New, SG No. 20/2021) The procedure set out in Section V shall apply in case of unavailable sufficient radio frequency spectrum to be provided to all applicants regardless of the consultations held under Paragraph (5) herein.

(8) (Renumbered from Paragraph (6), amended, SG No. 20/2021) If the conditions under Paragraphs 4 and 6 are satisfied, the Commission shall provide the supplementary radio frequency spectrum requested, by modifying and supplementing the authorization of the applicant for use of radio frequency spectrum within 42 days from the date of submission of the application.

(9) (Renumbered from paragraph (7), amended, SG No. 20/2021) If the conditions under Paragraph (4) are satisfied, the Commission shall provide the supplementary numbering resource requested, by modifying and supplementing the authorization of the applicant for use of numbering resource within 21 days from the date of submission of the application.

(10) (Renumbered from Paragraph (8), amended, SG No. 20/2021) Within 14 days from receipt of the notification referred to in Paragraphs (8) and (9) the applicant shall remit to the account of the Commission the fees due for use of the supplementary radio frequency spectrum or numbering resource provided in proportion to the time of use during the current year.

**Article 113a.** (New, SG No. 20/2021) (1) Only an undertaking authorized to use a geostationary orbital position with the relevant radio frequency spectrum may apply for use of supplementary radio frequency spectrum. The said undertaking shall submit an application which, in addition to the data covered under Article 83 herein, shall state:

1. number and date of issue of the authorisation;
2. the geostationary orbital position provided to the undertaking;
3. the supplementary radio frequency spectrum for the use thereof an amendment and supplement of an authorization is requested and, the name of the satellite system for which such spectrum is requested;
4. term for use of the supplementary radio frequency spectrum, which may not be longer than the term for use of the geostationary orbital position;
5. other information set out in the rules under Article 127 (2).

(2) The application shall be accompanied by documents and data justifying the need to use the supplementary radio frequency spectrum.

(3) The Commission shall provide the requested supplementary radio frequency spectrum, where:

1. the undertaking has a proven necessity of such resource for expansion, modernization and development of its own satellite system, when implementing public electronic communications thereover, and
2. the satellite system of the undertaking allows expansion, modernization and development, and
3. the international coordination of the requested supplementary radio frequency spectrum has been completed, and
4. the undertaking has paid the required fees, in time and in the amount, as determined in international acts for international coordination and registration of the supplementary radio frequency spectrum.

(4) The supplementary radio frequency spectrum shall be granted without a contest or competition.

(5) If the conditions under Paragraph (3) are satisfied, the Commission shall provide the supplementary radio frequency spectrum requested, by modifying and supplementing the authorization for use of geostationary orbit with the relevant radio frequency spectrum, within 42 days from the date of submission of the application.

(6) Within 14 days from receipt of the notification referred to in Paragraph (5), the applicant shall remit to the account of the Commission the fees due for use of the supplementary radio frequency spectrum provided, in proportion to the time of use during the current year.

## **Section IX**

### **Amendment, Supplement, Termination, Withdrawal or Transfer of Authorisation (Heading amended, SG No. 20/2021)**

**Article 114.** (1) An undertaking which has been granted an authorization may, prior to the expiry of the period of validity of the said authorization, make a reasoned request for a reduction of the period of validity of the authorization. The Commission shall examine the reasonableness of the request and shall pronounce by decision within one month after receipt of any such request.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) No less than 45 days prior to expiry of the term of validity of the authorization an undertaking which has been granted an authorization may submit a reasoned request for extension of the term of validity of the authorization granted. The Commission shall examine the reasonableness of the request, taking account of:

1. the benefits to consumers;
2. the need to promote competition and the development of new technologies;
3. the regulatory policy for the scarce resource concerned.

(3) (New, SG No. 105/2011, effective 29.12.2011) The Commission shall express its opinion by a decision within one month after receipt of any request referred to in Paragraph 2 and, if the request is granted, the Commission shall enter the new period of validity in the authorization.

(4) (Renumbered from Paragraph (3), SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) If, within the term under Paragraph (2) the undertaking which has been granted an authorization fails to request an extension of the term of validity of the authorization, as well as in case the request under Paragraph (2) is not satisfied, it shall be assumed that the limited resource provided is free upon expiry of the term of validity of the authorisation.

(5) (Renumbered from Paragraph (4), SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The term of validity of an authorization for use of radio frequency spectrum through electronic communications networks for analogue terrestrial broadcasting shall be extended after extension of the term of validity of the licence under the Radio and Television Act for the same period of time.

(6) (New, SG No. 20/2021) Within 14 days from receipt of the notification for satisfaction of the request under Paragraph 2, the applicant shall remit the fees due to an account of the Commission.

**Article 114a.** (New, SG No. 20/2021) (1) Not later than two years prior to expiry of the initial term of validity of an authorisation for use of harmonized radio frequency spectrum for wireless broadband services under Article 71a (2) the Commission on its own initiative or upon request of the undertaking, to which the authorisation has been issued, shall make an objective and perspective assessment of the general criteria for extension of the term of validity of the authorisation under Article 71a (4), in accordance with Item 3 of Article 124 (4).

(2) The Commission shall adopt a decision for extension of the term of validity of the authorisation under Paragraph 1, if a procedure under Article 117 has not been initiated and, the Commission has concluded that such extension complies with the general criteria for extending the term of validity of the authorization.

(3) Based on the assessment under Paragraph (1) the Commission shall notify in writing the undertaking, which the permit has been issued to, whether the term of the permit must be extended and, within a period of not less than 3 months the Commission shall conduct public consultations under Article 37 regarding its position.

(4) The results of the public consultations shall be published on the Commission's website.

(5) The Commission shall adopt a reasoned decision to extend the authorization or to announce an intention to hold a competition or tender for granting of rights to use the specific harmonized radio frequency spectrum for wireless broadband services.

(6) When adopting a decision under Paragraph 5, the rules under Article 114 (2) – (5) shall not apply.

**Article 114b.** (New, SG No. 20/2021) (1) The Commission may adopt a decision to extend the term of an authorisation issued for use of harmonized radio frequency spectrum, on its own initiative or upon request of the undertaking, which the authorisation has been issued to, submitted not earlier than 5 years prior to expiry of the term of the authorisation, unless in the conditions of Item 4 of Article 106 (2) such extension is explicitly excluded.

(2) The Commission shall examine the merits of the request at least two years before expiry of the authorization, taking into account thereby:

1. the fulfilment of the objectives under Article 4 and Article 124 (4) and the objectives of general interest determined in accordance with the law of the European Union;
2. application of a technical implementing measure adopted in accordance with Article 4 of Decision № 676/2002/EC;
3. the fulfilment of the conditions and obligations of the authorisation issued;
4. the need to encourage competition or to avoid violations thereof;
5. the need for more efficient use of radio frequency spectrum in view of technological or market developments;
6. the need to avoid serious disruption of services.

(3) Before adopting a decision for extension of the term of an authorisation for use of harmonized radio frequency spectrum for which the number of rights for use is limited the Commission shall

conduct public consultations under Article 37, stating thereby its reasons for a possible extension of the term of the authorisation.

(4) The results of the public consultations shall be published on the Commission's website.

(5) The Commission shall adopt a decision for extension of the term or for conducting a procedure under Article 90 (4) taking into account the results of the study under Paragraph 2 and the results of the public consultations under Paragraph 3, including the interest expressed in the course of the consultations by other undertakings in obtaining authorisation for use of harmonized radio frequency spectrum.

(6) When adopting a decision under Paragraph (1), the rules under Article 114 (2) – (5) shall not apply.

**Article 115.** (1) An authorization may be modified and supplemented by reasoned decision of the Commission by reason of:

1. force majeure;
2. reasons related to national security;
3. changes in the domestic legislation and decisions of international organizations in force for the Republic of Bulgaria;
4. (amended and supplemented, SG No. 20/2021) reasons related to public interest, arising from the need to guarantee the efficient and effective use of the scarce resource, protection of the interests of users and consumers and ensuring the universal service;
5. (new, SG No. 20/2021) the need to change the term of an authorisation issued in relation to Article 71c.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) The amendments and supplements under Items 4 and 5 of Paragraph (1) shall be made after written notification to the undertaking concerned, which the authorisation has been issued to and, which may express an opinion within 14 days from receipt of the notification.

(3) (New, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) Where the amendments and supplements under Items 4 and 5 of Paragraph (1) are essential, the Commission shall conduct a public consultation under Article 37 herein within a term non shorter than 30 days.

**Article 116.** The undertaking which has been granted an authorization may approach the Commission with a reasoned request to amend and supplement the authorization outside the cases covered under Article 115 (1) herein. The Commission shall examine the reasonableness of the request, shall judge the need of modifying and supplementing the authorization, and shall pronounce by decision within thirty days after receipt of any such request.

**Article 117.** (1) (Amended, SG No. 20/2021) The validity of an authorization granted for use of scarce resource shall be suspended after withdrawal of the authorization granted by the Commission in the following cases:

1. (amended, SG No. 20/2021) where an undertaking, which has been granted an authorization for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum, has failed to fulfil any or all of the obligations thereof under Item 7 of Article 106 (2) herein;
2. (amended, SG No. 20/2021) upon systematic violations of one and the same condition of the authorization granted for use of the scarce resource provided;
3. upon systematic non-payment of the taxes due in connection with the authorization granted;
4. where, upon conduct of an inspection by the Commission, existence of any of the circumstances referred to in Item 3 (a), (b) and (c) of Article 84 (1) herein has been ascertained;
5. (new, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) an undertaking, which has been granted an authorization for use of radio frequency spectrum or a geostationary orbital position with the relevant radio frequency spectrum has failed to fulfil any or all of the obligations under Item 2 of Article 106 (2) herein and has not submitted a request for transfer or lease of the radio frequency spectrum granted by an authorisation under Article 121 herein.

(2) (Amended, SG No. 20/2021) The validity of the authorization for use of scarce resource may be terminated in the following cases:

1. (amended, SG No. 20/2021) upon a motivated written request of a competent authority in case of ascertained actions of the person, which an authorisation has been issued to, which actions endanger the national security when using the limited resource provided thereto with the authorisation;
  2. (amended, SG No. 20/2021) where the undertaking which has been granted an authorization declares existence of any of the circumstances under Sub-items (a), (b) and (c) of Item 3 of Article 84 (1) herein;
  3. (amended, SG No. 20/2021) upon a motivated written request of the person to which a permit has been issued;
  4. (amended, SG No. 17/2009) upon death of the natural person, upon liquidation or dissolution of the legal person or upon cessation of the activity of the sole trader: in the cases where authorizations have been granted thereto;
  5. upon expiry of the period of validity of the authorization;
  6. on the grounds of an obligation arising from a ratified international agreement which has entered into force and whereto the Republic of Bulgaria is a party;
  7. (amended, SG No. 20/2021) after notification by the Council for Electronic Media of an effective decision on termination of the relevant licence issued by the Council for Electronic Media to the undertaking implementing electronic communications over electronic communications networks for analogue terrestrial broadcasting.
- (3) The decisions adopted by the Commission in pursuance of Item 1 of Paragraph (2) shall be subject to immediate enforcement.
  - (4) The validity of the authorization granted if the prerequisites covered under Paragraph (1) exist shall cease after advance written notification of the undertaking, with the Commission expressly indicating the specific grounds and reasoning.
  - (5) By the notification referred to in Paragraph (4), the Commission shall allow the undertaking not less than 30 days to express an opinion.
  - (6) (Amended, SG No. 17/2009, amended and supplemented, SG No. 20/2021) The Commission may withdraw an authorization only after considering the explanations and objections of the undertaking, ascertaining the availability of sufficient evidence of the existence of the circumstances under Paragraph (1) and make a preliminary assessment of the damages that may result from the withdrawal of the authorisation.
  - (7) (New, SG No. 20/2021) When the revocation of an authorisation under Paragraph (6) affects the public interest, the interests of the users and the consumers and the provision of universal service, the Commission shall conduct a public consultation under Article 37 within a period not shorter than 30 days.

**Article 118.** (1) (Amended, SG No. 20/2021) In the cases referred to in Item 4 of Article 117 (2) herein, the scarce resource shall not be considered available if any or some of the successors apply in writing to the Commission for use of the scarce resource for which the authorization was granted within one month after the death of the natural person. In such case, the Commission shall grant a new authorization for use of the same scarce resource without a contest or tender within 21 days after submission of the application. The Commission shall notify the applicants in writing within three days after the grant of the authorization.

(2) Within fourteen days after receipt of the notification referred to in Paragraph (1), the applicant shall remit the fees due to the account of the Commission.

(3) The Commission shall deliver the authorization to the applicants after payment of all fees due under this Act.

**Article 119.** An undertaking of which the validity of an authorization has been terminated in pursuance of Article 117 (1) herein may submit an application for the grant of a new authorization not earlier than twelve months after the date of the decision of the Commission on termination of the validity of the authorization.

**Article 120.** (1) (Amended, SG No. 20/2021) The validity of an authorization granted for use of scarce resource may be suspended by the Commission in the following cases:

1. (amended, SG No. 35/2009, effective 12.05.2009, No. 20/2021) upon request from a competent authority in cases of disasters, upon declaration of martial law, a state of war or a state of emergency;
2. upon a reasoned request from the competent authorities if the national security is jeopardized;
3. (repealed, SG No. 20/2021).
- (2) (Amended, SG No. 20/2021) In the cases under Item 1 the suspension shall continue until the need for it ceases to exist.
- (3) (Repealed, SG No. 20/2021).
- (4) (Repealed, SG No. 20/2021).
- (5) The decisions on suspension and subsequent resumption of the validity of an authorization as granted shall be communicated to the parties concerned within three days.

**Article 121.** (1) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) An undertaking which has been granted an authorization for use of scarce resource may transfer the authorization or part of the rights and corresponding obligations included therein or, lease radio frequency spectrum only after a prior authorization by the Commission. The requirements for transfer of an authorisation issued upon legal succession shall be indicated in the normative administrative act under Article 122 (1).

(2) (New, SG No. 20/2021) An undertaking wishing to transfer the authorization granted thereto for use of limited resource or part of the rights and corresponding obligations included in an authorization for use of radio frequency spectrum or, lease radio frequency spectrum shall submit an application to the Commission.

(3) (New, SG No. 20/2021) The request referred to in Paragraph (2) shall be in the Bulgarian language and shall contain:

1. identification data of the undertaking under Paragraph (2);
2. identification data of the person, who wishes to be transferred the authorisation for use of limited resource or part of the rights and the corresponding obligations, included in an authorisation for use of radio frequency spectrum or, to lease the latter to such person;
3. authorisation No.;
4. identification data of the person wishing to have transferred to him the authorisation for use of limited resource or part of the rights and the corresponding obligations, included in an authorisation for use of radio frequency spectrum or, to have the latter leased to such person;
5. consent of the person under Item 2;
6. consent of the undertaking under Paragraph (2) to fulfil the obligations under the authorisation for use of radio frequency spectrum, when renting radio frequency spectrum.

(4) (New, SG No. 20/2021) An application shall be accompanied by:

1. documents pursuant to Item 1 of Article 83 (2): about the undertaking under Paragraph (2) and the person, wishing to have transferred to him the authorisation for use of limited resource or part of the rights and the corresponding obligations, included in an authorisation for use of radio frequency spectrum or, to have the latter leased to such person;
2. documents pursuant to Items 2 – 4 of Article 83 (2): about the person wishing to have transferred to him the authorisation for use of limited resource or part of the rights and the corresponding obligations, included in an authorisation for use of radio frequency spectrum or, to have the latter leased to such person.

(5) (New, SG No. 20/2021) The Commission shall notify the applicant in writing to cure the deficiencies or non-conformities in the documents under Paragraphs 3 and 4 within 7 days from receipt of the notification. In case of a failure to cure the deficiencies or non-conformities within the time limit as allowed, the application shall not be considered.

(6) (New, SG No. 20/2021) The Commission shall express its opinion on the request under Paragraph (2) within 42 days from the submission of the application or from the elimination of the incompleteness or irregularities under Paragraph (5).

(7) (Renumbered from Paragraph (2), SG No. 20/2021) The Commission shall grant an authorization under Paragraph (1) where the following conditions are fulfilled:

1. (supplemented, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) the transfer or rental shall not distort competition in the electronic communications sector in the part on using limited resources and, allows these rights or the relevant radio frequency spectrum to be optimally separated, and
2. (supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) the transfer or lease shall not lead to changes in the conditions for use of scarce resource, or
3. (supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) the transfer or lease under Paragraph (1) for implementation of electronic communications through electronic networks for analogue terrestrial broadcasting shall not lead to change of the radio and television programme services of the public broadcasters governed by public law as distributed by the undertakings licensed by the Council for Electronic Media;
4. (new, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) two years have elapsed since the obtaining of the scarce resource through a contest or tender.
5. (new, SG No. 20/2021) in the cases of harmonized radio frequency spectrum – the transfer under Paragraph (1) meets the conditions for harmonized use;
6. (new, SG No. 20/2021) the undertaking to which the rights will be transferred meets the requirements under Item 2 of Article 93 (2).
- (8) (Renumbered from Paragraph (3), SG No. 20/2021) Paragraph (1) shall not apply upon universal succession through change of the legal form of the corporation.
- (9) (New, SG No. 20/2021) By a motivated decision the Commission shall refuse the transfer of an authorisation or part of the rights and the corresponding obligations included in an authorisation for use of radio frequency spectrum or, the leasing of the latter, where a circumstance under Item 3 of Article 84 (1) is available in regard to the person under Item 2 of Paragraph 3.
- (10) (New, SG No. 20/2021) Within 14 days from receipt of the notification on the issuing the authorisation under Paragraph (1) the applicant shall remit the fees due to an account of the Commission.

**Article 122.** (1) (Amended, SG No. 17/2009, previous text of Article 122, amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The terms and conditions for transfer of authorizations for use of scarce resource and, of part of the rights and the corresponding obligations included in an authorization or lease of radio frequency spectrum, shall be established in a statutory administrative act by the Commission after a public consultation under Article 36 herein and the act shall be promulgated in the State Gazette.

(2) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The terms and conditions for transfer of authorizations for use of scarce resource, as well as of part of the rights and the corresponding obligations included in an authorization or lease of radio frequency spectrum should not distort competition.

**Article 123.** (Amended, SG No. 105/2011, effective 29.12.2011) (1) (Previous text of Article 123, amended and supplemented, SG No. 20/2021) On a monthly basis, the Commission shall publish on the Internet site thereof information on the intentions of the undertakings to transfer or lease, as well as the rights transferred under the authorisations issued or on the leased radio spectrum.

(2) (New, SG No. 20/2021) The publication shall be made in a standardized electronic format and the information shall be stored until the expiration of the authorisation.

## Chapter Six

### RADIO FREQUENCY SPECTRUM AND GEOSTATIONARY ORBITAL POSITIONS WITH THE RELEVANT RADIO FREQUENCY SPECTRUM (Heading supplemented, SG No. 20/2021)

**Article 124.** (1) (Amended, SG No. 20/2021) The management and efficient use of the radio frequency spectrum without harmful interference shall be carried out in accordance with the state policy on planning and allocation of the radio frequency spectrum, the National Radio Spectrum Allocation Plan, the Regulatory Policy for Radio Spectrum Management for Civilian Needs, as well as in accordance with international agreements whereto the Republic of Bulgaria is a party.



(2) (Amended, SG No. 20/2021) When allocating the radio frequency spectrum and determining the conditions for the use thereof:

1. the effective management of the radio frequency spectrum shall be guaranteed in accordance with Articles 4 and 4a;

2. objective, transparent, promoting competition, non-discriminatory and proportionate criteria. criteria shall be applied.

(3) (New, SG No. 20/2021) The radio frequency spectrum management shall respect international agreements, including the Radio Regulations of the International Telecommunication Union and other agreements adopted within that organization, which are applicable to radio spectrum, and shall take into account public policy considerations.

(4) (New, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (3), amended, SG No. 20/2021) The harmonized use of radio frequency spectrum by electronic communications networks and services in the European Union is promoted in accordance with the need to ensure efficient and effective use thereof and to create benefits for consumers, such as competition, economies of scale and interoperability of networks and services, as well as for the purpose of:

1. achieving wireless broadband coverage on the territory of the country and the population with connection of high quality and speed, as well as coverage of the main transport routes at national and European level, including the trans-European transport network, as referred to in Regulation (EU) № 1315/2013;

2. facilitating the rapid development in the European Union of new wireless technologies and applications, including, if necessary, a cross-sectoral approach to radio frequency spectrum management;

3. ensuring predictability and consistency in the granting, extension, modification, limitation and revocation of radio frequency spectrum rights of use in order to encourage long-term investment;

4. prevent cross-border or national harmful interference and taking appropriate preventive and corrective measures;

5. promoting the shared use of radio frequency spectrum between similar or different uses of radio frequency spectrum in accordance with competition law;

6. implementing the most appropriate and the most relieved authorization system possible in order to maximize flexibility, sharing and efficiency in the use of radio frequency spectrum;

7. implementing rules for the granting, transfer, extension, modification and revocation of the rights of use of the radio frequency spectrum, which are clearly and transparently established to ensure regulatory certainty, consistency and predictability;

8. consistency and predictability in the European Union with regard to how the radio frequency spectrum is authorized and used, protecting thereby the public health in view of the requirements regarding the limitation of exposure of the population to electromagnetic fields.

**Article 124a.** (New, SG No. 20/2021) (1) Where there is no market demand at national or regional level for the use of radio frequency band in the harmonized radio spectrum, the Commission may authorize the alternative use of all the radio frequency band or part thereof, including the existing usage, provided that:

1. the conclusion for lack of market demand for the use of such band is based on public consultations conducted under Article 37, including a forecast estimate of market demand;

2. the alternative use does not impede or hinder the availability or use of such band in other Member States of the European Union, and

3. the long-term availability or use of such a band in the European Union and the economies of scale for the equipment resulting from the use of harmonized radio frequency spectrum in the European Union are taken into account.

(2) The Commission shall review any decision to exceptionally authorize an alternative use at least every 2 years. Upon a substantiated request by an interested person to the Commission for use of the radio frequency band in accordance with the technical implementing measures adopted pursuant to Article 4 of Decision № 676/2002/EC, the Commission shall review its decision as soon as possible.

(3) The Commission shall inform the European Commission and the other Member States of the European Union about the adopted decision under Paragraph (1) and the justification thereof, as well as of the result of the review under Paragraph (2).

**Article 124b.** (New, SG No. 20/2021) (1) When coordinating the use of harmonized radio frequency spectrum for electronic communications networks and services within the European Union, taking into account the national market conditions, a common date may be set by which the use of a specific harmonized radio frequency spectrum must be authorized.

(2) Where harmonized conditions are established by means of technical implementing measures in accordance with Decision № 676/2002/EC, the use of radio frequency spectrum for wireless broadband networks and services shall be authorized no later than 30 months after the adoption of the technical implementing measure or as soon as possible after cancelling the decision for authorising of alternative use under Article 124a (1).

(3) The term under Paragraph 2 may be postponed for a specific radio frequency band in the following circumstances:

1. limitation of the use of such radio frequency band based on a purpose of common interest under Items 1 or 4 of Article 130 (3);
2. unresolved problems of cross-border coordination leading to harmful interference with third countries, provided that support is requested from the European Union under Article 131a (6);
3. protection measures of the national security and defence, or
4. force majeure.

(4) The postponement of the term under Paragraph (3) shall be reviewed at least once every two years.

(5) The deadline under Paragraph (2) may be postponed for a specific radio frequency band for a period of up to 30 months in case of:

1. unresolved problems of cross-border coordination leading to harmful interference with third states – European Union members, provided that all the required measures under Article 131a (4) and (5) are taken in a timely manner;
2. the need to ensure, as well as the complexity of ensuring, the technical migration of existing users of such radio frequency band.

(6) The Commission, in coordination with the Ministry of Transport, Information Technology and Communications, shall notify of the postponement of the term under Paragraph (3) or (5) the other Member States of the European Union and the European Commission, giving the relevant reasons.

**Article 124c.** (New, SG No. 20/2021) (1) The Commission may determine general aspects of a spectrum authorization procedure together with a regulatory or other competent authority of another Member State of the European Union, including conducting a contest or tender procedure with such authority, taking into account the interests expressed by market participants.

(2) In the preparation of the procedure under Paragraph (1) the following criteria shall be considered:

1. initiation and implementation of the individual national procedures according to a jointly agreed schedule;
2. general conditions and procedures for the selection and granting of individual rights for use of radio frequency spectrum;
3. general or comparable conditions for individual rights to use radio spectrum which enable the users to be provided with similar blocks of radio frequency spectrum;
4. the opportunity of joining the regulatory or other competent authorities of other Member States of the European Union at any time during the procedure.

(3) Where, despite the interest expressed by market participants the Commission and a regulatory or other competent authority of another Member State of the European Union do not act together, the Commission shall inform the relevant market participants of the reasons for its decision.

**Article 125.** (1) (Amended, SG No. 20/2021) Where the use of radio frequencies has been harmonized, the conditions and procedures have been agreed and, the undertakings to which the radio frequencies are to be assigned have been selected in accordance with international agreements and

the European Union rules, the Commission shall grant an authorization for use of such radio frequency spectrum.

(2) (Amended, SG No. 20/2021) If all national conditions relating to the right to use the relevant radio frequency spectrum have been satisfied in the case of a common selection procedure, the Commission must not impose other conditions, additional criteria or procedures which would restrict, alter or delay the correct implementation of the common assignment of such radio frequency spectrum.

**Article 126.** (Amended, SG No. 20/2021) The radio spectrum in the range shall be allocated into radio frequencies and radio frequency bands, radio services and users.

**Article 127.** (1) (Previous text of Article 127, amended, SG No. 20/2021) The geostationary orbital positions with the relevant radio frequency spectrum shall be assigned by international agreements.

(2) (New, SG No. 20/2021) In connection with exercising its powers under Item 5 of Article 32 (1), the Commission shall adopt rules for interaction with the interested undertakings in the application, international coordination and registration in international organizations of electronic communications, of the geostationary orbital positions with the relevant radio frequency spectrum and of the radio frequency spectrum used by a non-geostationary satellite system and, for the procedure for payment of fees determined by an international act. The rules shall be adopted by the Commission after conducting a public consultation under Article 36 herein and shall be promulgated in the State Gazette.

**Article 128.** (Amended and supplemented, SG No. 20/2021) The radio frequency spectrum management and the use of the geostationary orbital positions with the relevant radio frequency spectrum shall be implemented for the purpose of the efficient use of the radio spectrum without harmful interference, taking into consideration the national security interests and respecting the principles of predictability, equal treatment and objectivity.

**Article 129.** (1) (Supplemented, SG No. 20/2021) The Commission shall provide for use the geostationary orbital positions with the relevant radio frequency spectrum, the radio frequencies and radio frequency bands allocated for civilian needs.

(2) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission shall grant individual rights to use radio frequency spectrum after national coordination and clearance with all interested state bodies, central-government departments and services concerned for the purpose of ensuring the safety of aeronautical and maritime navigation and protection of the national security.

(3) (Amended, SG No. 20/2021) Should the right to use the radio frequency spectrum be withdrawn, due to changes in the legislation arising from fulfilment of an international obligation of the Republic of Bulgaria, a compensation from the state budget must be provided for at an amount determined by a reasoned proposal of the Commission.

(4) (New, SG No. 20/2021) The right to use the radio frequency spectrum may be limited or revoked for reasons arising from the need to ensure the efficient and effective use of the radio frequency spectrum or the application of technical implementing measures adopted pursuant to Article 4 of Decision № 676/2002/EC, in compliance with the principles of proportionality and equal treatment and after conducting a public consultation under Article 37 within a period not shorter than 30 days. In such cases compensation from the state budget may be provided for, whereby the amount thereof shall be determined on a reasoned proposal of the Commission subject to public consultation under the first sentence.

**Article 130.** (1) (Previous text of Article 130, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The right to use radio frequency spectrum shall not be related to any restrictions in respect of the type of services provided or technologies used.

(2) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Restrictions of the rights to use radio frequency spectrum in respect of the technologies used shall be admissible solely in the cases where this is necessary to:

1. avoid harmful interference;

2. protect public health against the impact of electromagnetic fields;
3. ensure technical quality of service;
4. (amended, SG No. 20/2021) ensure the maximum shared use of radio frequency spectrum;
5. (supplemented, SG No. 20/2021) safeguard efficient use of the radio frequency spectrum, or
6. (amended, SG No. 20/2021) ensuring the fulfilment of objectives of common interest in accordance with Paragraph (3).

(3) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Restrictions of the rights to use radio frequency spectrum with respect to the services provided shall be admissible only with a view to fulfilling objectives of general interest, above all concerning:

1. safety of life;
2. the promotion of social, regional or territorial cohesion;
3. (amended, SG No. 20/2021) avoiding inefficient use of radio frequency spectrum;
4. (amended, SG No. 20/2021) promoting cultural and linguistic diversity and media pluralism, including the provision of transmission services for radio and TV broadcasting.

(4) (New, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) The provision of other electronic communications services in a specific radio frequency band may be prohibited only where necessary to protect the operation of safety of life radio services. In exceptional cases, such prohibition may be extended in order to fulfil other objectives of general interest defined in accordance with European Union law.

(5) (New, SG No. 20/2021) Change of the use of the radio frequency spectrum under Paragraphs 2 – 4 cannot be the only ground for revocation of an individual right to use radio frequency spectrum.

**Article 130a.** (New, SG No. 105/2011, effective 29.12.2011) The Commission shall regularly, at least once every two years, review the necessity of the restrictions referred to in Article 130 (2) to (4) herein and shall make the results of this review public on the Internet site thereof.

**Article 131.** (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 131a.** (New, SG No. 20/2021) (1) The Ministry of Transport, Information Technology and Communications, in agreement with the Commission, shall take the necessary measures for the use of radio frequency spectrum in a manner that does not create obstacles to other Member States of the European Union to allow the use of harmonized radio frequency spectrum in their territory in accordance with the law of the European Union, including cross-border harmful interference between the Republic of Bulgaria and other Member States of the European Union.

(2) The measures under Paragraph (1) shall be adopted in accordance with the obligations arising from an international agreement to which the Republic of Bulgaria is a party, including the Radio Regulations of the International Telecommunication Union and the regional radio communication agreements of the International Telecommunication Union.

(3) The Ministry of Transport, Information Technology and Communications, in agreement with the Commission, shall cooperate with the competent authorities of other Member States of the European Union, including within the Radio Spectrum Policy Group, in cross-border coordination of the radio frequency spectrum use, for:

1. undertaking and implementing the measures under Paragraph (1);
2. resolving problems or disputes related to cross-border coordination or cross-border harmful interference between Member States of the European Union and with third countries that prevent the use of the harmonized radio frequency spectrum on the territory of the Republic of Bulgaria or another Member State of the European Union.

(4) The Ministry of Transport, Information Technology and Communications, in agreement with the Commission, may request the assistance of the Radio Spectrum Policy Group in resolving a problem or dispute related to cross-border coordination or cross-border harmful interference.

(5) Where the actions under Paragraphs 3 or 4 have not resolved a problem or dispute, the Ministry of Transport, Information Technology and Communications, in coordination with the Commission, may request the European Commission to adopt a decision on resolving a dispute in connection with a problem of cross-border harmful interference between the Republic of Bulgaria and another Member State of the European Union, which hinders the use of harmonized radio frequency spectrum.

(6) The Ministry of Transport, Information Technology and Communications, in agreement with the Commission, may request the European Union to provide legal, political and technical support for addressing radio frequency spectrum coordination issues with neighbouring countries of the European Union, including candidate countries and acceding countries, so that the Republic of Bulgaria to be able to fulfil its obligations pursuant to the law of the European Union.

**Chapter Seven**  
**NUMBERING RESOURCES**  
**(Heading amended, SG No. 20/2021)**

**Section I**  
**(New, SG No. 105/2011, effective 29.12.2011)**

**National numbering resources**  
**(Heading amended, SG No. 20/2021)**

**Article 132.** (Supplemented, SG No. 20/2021) The National Numbering Plan shall constitute an allocation of the numbers used in electronic communications networks for identification, routing and billing by undertakings providing public electronic communications services different from number-independent interpersonal communication services.

**Article 132a.** (New, SG No. 20/2021) (1) The Commission shall grant rights to use all national numbering resources, manage the National Numbering Plan, provide adequate numbering resources for all public electronic communications services and, control their use.

(2) Rights to use national numbering resources shall be granted through objective, transparent and non-discriminatory procedures.

(3) The Commission may provide for use national numbering resources for the purpose of providing specific services to undertakings other than providers of electronic communications networks or services, provided that:

1. sufficient numbering resources are provided to meet current and foreseeable future needs;
2. the undertakings demonstrate that they can manage the numbering resources and comply with the relevant conditions set out in the authorization for use of numbering resources.

(4) The Commission may terminate the use of numbering resources under Paragraph (3) if it establishes that there is a risk of exhaustion of the numbering resources.

**Article 133.** (1) (Amended, SG No. 20/2021) The National Numbering Plan shall be prepared by the Commission in accordance with the regulatory policy under Item 7 of Article 30 (1).

(2) (Amended, SG No. 20/2021) The National Numbering Plan shall be prepared taking into consideration the acts of the international organizations or competent bodies thereof, relevant to numbers, in order to ensure efficient use of the numbering space.

(3) (Amended and supplemented, SG No. 20/2021) The National Numbering Plan and all its subsequent supplements or amendments shall be published in the official section of the State Gazette.

(4) (Amended, SG No. 20/2021) The Commission shall define a range of non-geographic numbers for the provision of electronic communications services, other than interpersonal communication services, throughout the European Union, subject to the requirements and limitations of Regulation (EU) № 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OB, L 172/10 of 30 June 2012), hereinafter referred to as "Regulation (EU) № 531/2012" and Article 138c (3).

(5) (New, SG No. 20/2021) The numbers from the scope under Paragraph (4) may be provided for use also in the cases under Article 132a (3).

(6) (New, SG No. 20/2021) The Commission shall send to the Body of European Regulators for Electronic Communications information on the range of numbers set out under Paragraph (4).

(7) (New, SG No. 20/2021) The Commission may authorize the numbers under Paragraph (4) to be used on the territory of countries outside the European Union.

(8) (New, SG No. 20/2021) The providers using numbering resources with the code of the Republic of Bulgaria in other Member States of the European Union shall comply with the rules for consumer

protection and other national regulations regarding the use of numbering resources applicable in the countries where the numbering resources are used.

**Article 133a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The rules for use, allocation and the procedures of primary and secondary provision for use, reservation and withdrawal of numbering resources shall be established by ordinance of the Commission after a public consultation under Article 36 herein, and the said ordinance shall be promulgated in the State Gazette.

**Article 133b.** (New, SG No. 20/2021) The Commission may conclude agreements on the use of number based interpersonal communication services between neighbouring settlements in the border areas with other Member States of the European Union, including the use of a common numbering plan for all or specific categories of numbers. The Commission shall inform all undertakings and end-users affected by the agreement within a reasonable time before entry into force of the agreement.

## **Section II**

### **(New, SG No. 105/2011, effective 29.12.2011)**

#### **Number Portability**

**Article 134.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings providing public electronic communications services through the use of numbers from the National Numbering Plan shall ensure an opportunity to number portability whereby the end users shall have the right, on request, to keep their numbers regardless of the undertaking providing the service, for:

1. (amended, SG No. 105/2011, effective 29.12.2011) their geographic number when changing the undertaking providing the respective service and/or when changing their address within the same geographic national destination code;
2. (amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) the non-geographic number for each location;
3. (amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

(2) (Amended, SG No. 17/2009, repealed, SG No. 105/2011, effective 29.12.2011).

(3) (Amended, SG No. 105/2011, effective 29.12.2011) The Commission shall adopt functional specifications for number portability under Paragraph (1) after a public consultation under Article 36 herein and shall promulgate the said specifications in the Official Section of the State Gazette.

(4) The functional specifications shall contain:

1. technical conditions for implementation of portability;
2. action that the undertakings which are obligated to ensure portability must take, including time limits for implementation of such actions;
3. method for implementation of portability;
4. requirements regarding the database required to ensure the routing;
5. (amended, SG No. 20/2021) the obligations of the undertakings which ensure the portability and reasons for a refusal to provide the service to end-users;
6. procedure for implementation of portability;
7. principles of pricing and apportioning the costs among undertakings;
8. (new, SG No. 20/2021) compensation rules for end-users by providers in an easy and timely manner in case of non-compliance with the obligations under this Section, including in case of delays or abuses of number portability processes, as well as missed service and installation meetings;
9. (new, SG No. 20/2021) requirements for informing the end-users during the transfer processes, as well as for the existence of the rights for compensation set out in Item 8.

(5) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The number portability and the subsequent activation thereof shall be carried out in the shortest possible period set out in the functional specifications under Paragraph (3), if possible on the date when explicitly agreed with the end user. The receiving provider shall activate the number requested for porting within one working day from the agreed date whereby the deprivation of service during the portability process

shall not exceed one working day. In cases where an end user does not exercise the right thereof to agree on a specific date of portability, such date shall be determined by the receiving and donor provider.

(6) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) When an end user terminates a contract, he shall reserve the right to port a number under Paragraph (1) to another provider for a period of at least one month after the date of termination, unless he explicitly waives this right.

**Article 134a.** (New, SG No. 20/2021) (1) The receiving provider shall manage the number portability processes by cooperating in good faith with the donor provider. Providers shall be obliged not to delay, not to abuse the number porting processes and not to port numbers without the explicit consent of the end users. End-user contracts with the donor providers shall be automatically terminated once the portability process is complete.

(2) Upon request, donor providers shall reimburse the remaining credit to the consumers using prepaid services. The donor provider may charge a fee for the reimbursement that is proportionate and commensurate to the actual costs incurred by the donor provider only if provided for in the contract.

(3) In case of failure of the porting process, the donor provider shall reactivate the number and services of the end user until successful completion of the porting. The donor provider shall continue to provide its services under the terms of the current contract with an end user until the activation of the services of the receiving provider.

(4) The obligations under Paragraph (3) shall not be applied in case of number portability under Article 134 (6).

**Article 134b.** (New, SG No. 20/2021) The undertakings whose access networks or facilities are used by a donor or receiving provider, or both, shall ensure that there is no deprivation of service which would delay the number portability.

**Article 135.** (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 136.** (1) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011) The undertakings providing electronic communications networks and/or services shall determine among themselves prices related to the implementation of number portability as follows:

1. a lump-sum price covering the costs in connection with a verification of the identity of a subscriber or user and for other activities related to administrating the process of porting a number;
2. prices for interconnection associated with the changing of the undertaking referred to in Article 134 (1) herein respecting the principle of cost orientation.

(2) (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 136a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The undertakings under Article 134 (1) may not determine and impose on end users the payment of prices for number portability.

**Article 137.** (Amended, SG No. 17/2009, repealed, SG No. 105/2011, effective 29.12.2011).

**Article 138.** (Repealed, SG No. 105/2011, effective 29.12.2011).

### **Section III**

**(New, SG No. 105/2011, effective 29.12.2011)**

#### **Access to Numbers and Services**

**Article 138a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) An undertaking to which a right to use numbering resources has been granted shall not discriminate other providers of electronic communications services and undertakings with a granted right to use numbering resources under Article 132a (3) through unequal conditions regarding the numbering resources used for providing access to their services.

**Article 138b.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The undertakings providing public number based interpersonal communications services and ensuring a possibility to make outgoing calls to numbers from the National Numbering Plan shall

ensure free of charge access to end-users, including on public pay phones, to the single European emergency call number "112" and to the national emergency call numbers.

**Article 138c.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The undertakings providing public electronic communications services, where economically feasible, shall ensure all end-users a possibility for:

1. access to non-geographic numbers and use of services provided through such numbers within the European Union, and;

2. access to all numbers provided within the European Union, regardless of the technology and equipment used by the undertaking, including the numbers in the national numbering plans of the European Union Member States, as well as the universal international free phone numbers.

(2) (Amended, SG No. 20/2021) In case the called end-user has, for commercial reasons, limited access to the subscriber number thereof to calls by parties located in specific geographic areas, Paragraph (1) shall not apply.

(3) The Commission may require the undertakings providing public communications networks and/or services to block, on a case-by-case basis, access to numbers or services where this is justified by reasons of fraud or misuse and to require that in such cases the undertakings providing electronic communications services withhold the relevant interconnection and/or other service revenues.

(4) (Amended, SG No. 20/2021) In case the number referred to in Paragraph (3) is from the numbering plan of another Member State of the European Union or is a universal international free phone number provided to an undertaking providing public electronic communications services on the territory of such Member State, the Commission shall interact with the relevant regulatory authorities of that Member State for undertaking the actions referred to in Paragraph (3).

(5) The Commission may also take the steps referred to in Paragraph (3) upon a justified request by a regulatory authority or another state body of a Member State of the European Union.

**Article 138d.** (New, SG No. 103/2016, amended, SG No. 20/2021) The undertakings providing public voice communications services over fixed or mobile terrestrial networks, shall not have the right to register and activate in the name of one end-user more than 10 telephone numbers through which prepaid voice communications services are provided.

## **Chapter Eight**

### **FEES**

**Article 139.** (1) (Amended, SG No. 20/2021) The amount of the administrative fees due from the persons implementing electronic communications in compliance with the requirements of this Act shall correspond to the necessary administrative costs incurred by the Commission for international coordination and cooperation, harmonization and standardization, market analysis and market control, preparation and application of statutory instruments of secondary legislation and, issuing of administrative acts and exercising control over the implementation of the said acts.

(2) There shall be the following administrative fees referred to in Paragraph (1):

1. annual control fee;

2. (repealed, SG No. 20/2021);

3. (supplemented, SG No. 11/2014, effective 7.02.2014, repealed, SG No. 20/2021);

4. one-time fee for administrative services.

**Article 140.** (Amended, SG No. 20/2021) (1) Upon granting individual rights to use a limited resource, the persons shall pay a one-time fee for issuing a permit to use a limited resource.

(2) Upon conducting a tender for granting of an authorization for use of a scarce resource, the final tender price shall include the fee referred to in Paragraph (1).

(3) A one-time fee shall be due for amendment and supplementation of an authorisation for use of radio frequency spectrum.

(4) A one-time fee shall be paid for extension of the term of validity of an authorisation for the use of radio frequency spectrum for terrestrial networks allowing the provision of electronic communications services.

(5) The fees for using a limited resource for individual rights of use shall be:



1. an annual fee for using a limited resource;
2. a fee for temporary use of a scarce resource.

**Article 141.** (1) (Supplemented, SG No. 20/2021) The rate of the annual administrative control fee shall be up to 1.2 per cent of the gross annual income from the provision of electronic communications networks and/or services, exclusive of value added tax, after deduction of transfer payments to other undertakings for interconnection of networks and for access, transit, roaming, value added services, as well as costs of settlement of copyrights and neighbouring rights to radio and television programme services. Gross revenues from the provision of electronic communications networks and services shall include all revenues arising from the use of the limited resource.

(2) (Amended, SG No. 20/2021) The fee under Paragraph (1) shall be paid by the persons, implementing public electronic communications, by July 15 of the following year and shall be calculated on the basis of the revenues and expenses under Paragraph (1), the information for which has been provided by the undertakings under Article 40.

**Article 142.** (Amended, SG No. 20/2021) (1) The one-time fee for administrative services shall include labour and material costs.

(2) The one-time fees under Article 140 for individual rights to use radio frequency spectrum shall include the costs of frequency planning and national coordination.

**Article 143.** (Supplemented, SG No. 105/2011, effective 29.12.2011, SG No. 11/2014, effective 7.02.2014, amended, SG No. 20/2021) The persons implementing electronic communications after they are granted individual rights to use a limited resource shall pay annual fees for the use of numbering resources, radio frequency spectrum or geostationary orbital positions with the relevant radio frequency spectrum.

**Article 143a.** (New, SG No. 20/2021) (1) The amounts of the fees under Articles 140 and 143 shall be determined taking into account the economic and technological market situation.

(2) The Commission shall determine the amounts of the applicable fees for individual rights to use the radio frequency spectrum in a way that ensures the efficient allocation and use of the radio frequency spectrum, including through:

1. determination of minimum one-time fees under Article 140 (1), (3) and (4) taking into account the value according to the tariff under Article 147, of the rights for use of radio frequency spectrum in case of possible alternative use;
  2. taking into account the costs caused by the conditions to which the rights under Item 1 are bound, and
  3. applying of payment conditions related to the actual availability of the radio frequency spectrum for use.
- (3) When determining the amount of the applicable fees for the individual rights for use of harmonized radio frequency spectrum for wireless broadband services, the requirements under Article 71a shall be taken into account.
- (4) A decision to extend the term of validity of an authorisation for use of harmonized radio frequency spectrum under Article 114b may lead to a review of the amounts of the applicable fees and other conditions related thereto for the individual rights for use of harmonized radio frequency spectrum in the relevant radio frequency band, in accordance with the results of the analysis performed under Article 53 (2).
- (5) The amount of the fee under Article 140 (1) for the individual rights for use of numbering resources shall be determined in a way that ensures efficient use of the numbering resources.
- (6) The amounts of fees under Articles 140 and 143 for individual rights to use radio spectrum shall be determined on the basis of one or more of the following criteria:
1. number of registered residents who can be served by the electronic communications network for which an individual right has been granted for use of radio frequency spectrum;
  2. territorial range;
  3. effective radiated power or transmitter output power;
  4. frequency band occupied;
  5. number of radio stations used;

6. number of radio frequency channels used;
7. type of the radio frequency channel (radio frequency band) – simplex/duplex;
8. type of the electronic communications network;
9. number of electronic communications networks used;
10. intended purpose of the radio stations and the electronic communications networks;
11. period of use of the radio spectrum.

(7) The amount of the fee for use of numbering resources under Article 143 shall be determined on the basis of the degree of limitation of the numbering resources, taking into account their economic value determined on the basis of criteria, which the Commission shall determine in advance and publish on its website.

**Article 144.** (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 145.** (1) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The fees referred to in Article 143 herein shall be paid in 4 equal instalments before the end of the month for which the said fees are due.

(2) (Amended, SG No. 105/2011, effective 29.12.2011) The undertaking can pay the fees covered under Article 143 herein before the end of the first quarter of the current year. In such case, the fee shall be paid with a 5 per cent rebate.

**Article 146.** (1) (Amended, SG No. 20/2021) For issuing a provisional authorization for use of radio frequency spectrum the persons shall pay the following fees:

1. one-time fee for the granting of an authorization;
2. (amended, SG No. 20/2021) fees for provisional use of radio frequency spectrum.

(2) The fee referred to in Item 2 of Paragraph (1) shall be proportional to the time for which the authorization is granted.

**Article 147.** (1) The amount of the fees covered under this Chapter, the time limits and manner of payment of the said fees shall be determined by a Rate Schedule of Fees Collected by the Commission, adopted by the Council of Ministers on a motion by the Commission.

(2) (Repealed, SG No. 20/2021).

(3) (Amended, SG No. 20/2021) Fees are determined with a view to achieving the objectives under Article 4 and in compliance with the principles of objectivity, transparency, equal treatment and proportionality whereby the additional administrative costs and the accompanying fees shall be minimized.

(4) (Amended, SG No. 20/2021) Persons who or which have obtained an authorization for use of one and same scarce resource shall pay one and the same annual fees.

(5) (New, SG No. 20/2021) The tariff under Paragraph (1) shall determine the cases of exemption from one or more administrative fees under Article 139 (2) of undertakings whose turnover is below a certain threshold or whose activities do not exceed a certain market share or a limited territorial scope.

**Article 148.** (Amended, SG No. 17/2009, supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 15/2013, effective 1.01.2014, supplemented, SG No. 11/2014, effective 7.02.2014, amended, SG No. 100/2019, effective 1.01.2020) The fees under the rate schedule shall be collected and reported in the budget of the Commission which shall administer said revenues.

**Article 149.** (1) (Repealed, SG No. 100/2019, effective 1.01.2020).

(2) Fees according to the procedure established by this Chapter shall not be due from:

1. state bodies which implement electronic communications for their own needs in connection with the functions thereof;
2. diplomatic missions and other organizations enjoying the status of diplomatic missions, where implementing electronic communications for their own needs on a basis of reciprocity;
3. (new, SG No. 20/2021) scientific organizations implementing electronic communications for their own needs for the implementation of short-term projects or experimental use.

## Chapter Nine

### MARKETS FOR ELECTRONIC COMMUNICATIONS NETWORKS AND/OR SERVICES

**Article 150.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) The Commission shall define, analyze and assess the relevant markets for electronic communications networks and/or services as to whether there is effective competition in accordance with the general principles of competition law and the specific national conditions, shall designate undertakings with significant market power and, after assessment of the need of this, shall impose, maintain, amend and/or withdraw specific obligations on the undertakings providing public electronic communications networks and/or services on the relevant markets for attainment of the purposes of this Act.

(2) The terms and procedure for definition, analysis and assessment of the relevant markets and the criteria for designation of undertakings with significant market power shall be established by a methodology.

(3) (Amended, SG No. 17/2009, amended and supplemented, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) The methodology under Paragraph (2) shall be prepared by the Commission in coordination with the Commission for Protection of Competition according to the general principles of competition law and in accordance with the law of the European Union, taking into account as far as possible the applicable recommendations on the relevant markets for products and services in the electronic communications sector and the guidelines for market analysis and assessment of the significant market power of the European Commission. The said methodology shall be adopted by the Commission after conduct of a public consultation under Article 36 herein and shall be promulgated in the State Gazette.

(4) (New, SG No. 20/2021) The documents and the information that the undertakings provide to the Commission for performing the analysis under Article 151 (1) shall be determined in the methodology under Paragraph (2).

**Article 151.** (1) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011) Periodically, the Commission shall analyze, define and assess the markets for public electronic communications networks and/or services and shall ascertain the existence or lack of effective competition.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The draft decision of the Commission wherein the relevant market is defined, the analysis and the assessment whether there is effective competition, including the designation of an undertaking or undertakings with significant market power on the relevant market and the specific obligations which must be imposed, maintained, amended or withdrawn shall be provided for opinion, where necessary, to the Commission on Protection of Competition and shall be posted on the Internet site of the Commission for public consultation for a period not shorter than 30 days. The Commission on Protection of Competition shall pronounce within 30 days after receipt of the said draft.

(3) Within thirty days after expiry of the time limit referred to in Paragraph (2), the Commission shall consider the opinions and proposals received and shall post the said opinions and proposals on the Internet site thereof, with the exception of the parts constituting a business secret, the accepted proposals and the incorporation thereof in the draft, as well as the reasoning for the rejected proposals.

(4) (Repealed, SG No. 105/2011, effective 29.12.2011).

(5) (Amended, SG No. 105/2011, effective 29.12.2011) Upon completion of the procedure referred to in Paragraphs (2) and (3), the Commission shall coordinate the draft of a decision according to the procedure established by Article 42 herein.

**Article 152.** (1) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) The Commission shall identify the relevant markets in accordance with the requirements of the European Union law and the national conditions, taking into account as far as possible the applicable guidelines of the European Commission for market analysis and assessment of the significant market power. The Commission shall follow the procedures set out in Articles 36, 42 and 42a.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) The Commission shall determine the product scope and the geographical scope of the relevant markets according to the methodology under Article 150 (2) herein. In determining the geographical scope, the degree of infrastructural competition shall also be taken into account, as well as, where applicable, the results of the geographical survey under Article 181a.

(3) (Repealed, SG No. 105/2011, effective 29.12.2011).

(4) (Repealed, SG No. 105/2011, effective 29.12.2011).

(5) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) In defining a relevant market other than those listed in the applicable recommendation of the European Commission on the relevant markets for products and services in the electronic communications sector, the Commission shall be guided by the principles of competition law and shall investigate whether the criteria set out in Items 1, 2 and 3 have been cumulatively satisfied:

1. (supplemented, SG No. 105/2011, effective 29.12.2011) presence of high and non-transitory structural, legal or regulatory barriers to market entry, and
2. (amended, SG No. 20/2021) the market structure does not presuppose the achievement of effective competition within an appropriate time horizon, taking into account the state of competition with regard to infrastructure and other sources of competition beyond barriers to entry, and
3. (amended, SG No. 20/2021) insufficient effectiveness of competition law to overcome the identified market problems.

(6) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) When the Commission ascertains that at least one of the criteria under Paragraph (5) is not fulfilled the Commission may not perform the analysis of a relevant market set out in the applicable recommendation of the European Commission on the relevant markets for products and services in the electronic communications sector.

**Article 153.** (Repealed, SG No. 20/2021).

**Article 154.** (1) The Commission shall analyze the effectiveness of competition on the relevant market in accordance with the methods and principles of competition law.

(2) A relevant market shall be considered effectively competitive if no undertaking providing public electronic communications networks and/or services which, whether individually or jointly with other undertakings, has significant market power on the said market.

(3) (New, SG No. 20/2021) In the analysis under Article 151 the Commission shall consider the development of the relevant market under the perspective of absence of imposed regulation and shall take into account each of the following circumstances:

1. market development trends that would affect the likelihood of the relevant market to lean towards effective competition;
2. all competitive restrictions at wholesale and retail level, no matter if such restrictions result from electronic communications networks, electronic communications services or other services or applications that are comparable from the end-user's point of view, and no matter if such restrictions are part of a relevant market;
3. other types of obligations imposed affecting the relevant market or the related retail market during the period under review, including the obligations imposed pursuant to Articles 158, 160, 160a and 160b, as well as pursuant to Article 28 of the Electronic Communications Networks and Physical Infrastructure Act;
4. imposed obligations on other relevant markets on the grounds of Article 152 (1).

**Article 155.** (1) In the cases where on the basis of an analysis of a relevant market it is ascertained that competition is effective, the Commission shall not impose specific obligations on the undertakings providing public electronic communications networks and/or services on the relevant market.

(2) In case specific obligations have been imposed, the Commission shall withdraw the said obligations in respect of the undertakings providing public electronic communications networks and/or services on the relevant market.

(3) (New, SG No. 105/2011, effective 29.12.2011) In case specific obligations have been imposed on undertakings providing conditional access to digital radio and television programme services, the said obligations may be amended or withdrawn where, on the basis of a market analysis it is ascertained that competition is effective only to the extent that:

1. accessibility for end-users to radio and television broadcasts, broadcasting channels and services, specified as subject to "must carry" obligations, would not be adversely affected by the withdrawal or amendment of the obligations;

2. the prospects for effective competition would not be adversely affected in the markets for:

(a) retail digital television and radio broadcasting services;

(b) conditional access systems and other associated software or hardware facilities.

(4) (New, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) The parties affected by the amendment or withdrawal of obligations under Paragraphs 2 and 3 shall be given a sufficient notice of a forthcoming amendment or withdrawal of the obligations. The deadline shall be determined on the basis of a balance between the need to ensure a sustainable transition for the persons who have acquired rights from the imposition of such obligations and for end-users, the choice of end-users and the fact that regulation does not last longer than necessary. In determining the notice period, the Commission may set out special conditions and time limits for notices in relation to the existing access agreements.

**Article 156.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) In cases where, based on an analysis of the relevant market, it is established that there is no effective competition, the Commission shall designate undertakings that, individually or jointly, have a significant power on a relevant market and shall impose on such undertaking/undertakings specific obligations under Article 166 or, shall maintain or amend such obligations where they already exist, if it considers that the choice for end-users would be limited in the absence of such obligations, without prejudice to:

1. the provisions of Article 155 (3), Articles 160 – 160c and 178;

2. the provisions of Article 28 of the Electronic Communications Networks and Physical Infrastructure Act, Article 63, Item 7 of Article 106 (2), Articles 134, 138c and 230b in relation to the obligations of undertakings other than those designated as undertakings with significant market power;

3. compliance with international commitments.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

(3) (Repealed, SG No. 105/2011, effective 29.12.2011).

(4) (Repealed, SG No. 105/2011, effective 29.12.2011).

(5) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission may determine that two or more undertakings jointly have a significant market power not only where there are structural or other links between them, but also when the structure of the relevant market leads to coordinated results promoting parallel or concerted anti-competitive behaviour on the market.

(6) (New, SG No. 105/2011, effective 29.12.2011) In case an undertaking has significant market power on a specific market, it may also be designated as an undertaking having significant market power on a closely related relevant market where, on the basis of a market analysis, it is ascertained that the links between the two markets allow the market power held by the undertaking in the first market to be leveraged into the second market, thereby strengthening the market power of the undertaking.

(7) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) In the cases referred to in Paragraph (6) the Commission may impose specific obligations on an undertaking pursuant to Items 1, 2, 3 and 5 of Article 166 (2) herein in the second market as well, aimed at preventing the transfer of the market power of the latter to that market.

(8) (New, SG No. 20/2021) In exceptional circumstances, when the Commission intends to impose obligations on undertakings with significant power on a relevant market for access or interconnection, different from those under Items 1 – 6 of Article 166 (2) and Items 3 and 4 of Article 166 (3), the Commission shall request a permission from the European Commission.

(9) (New, SG No. 20/2021) The obligations under Paragraph (8) shall be imposed after permission from the European Commission.

**Article 156a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 157.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The specific obligations which the Commission may impose, maintain, amend or withdraw, the must be:

1. proportionate, taking into account costs and benefits where possible;
2. justified in terms of the objectives set out in Article 4;
3. imposed after conducting the procedures in accordance with Articles 36 and 42;
4. based on the nature of the problem identified by the Commission in the market analysis, taking into account, if appropriate, the determination of cross-border demand pursuant to Article 157b.

**Article 157a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Supplemented, SG No. 20/2021) The Commission shall define, analyse and assess the relevant markets and shall impose, maintain, amend or withdraw specific obligations on undertakings with significant market power on the relevant markets and shall forward a notification of the relevant draft decision pursuant to Article 42, within:

1. (amended, SG No. 20/2021) five years from defining the specific obligations of the undertaking/undertakings with significant power on the same market; exceptionally, this five-year period may be extended by a maximum of one year when the Commission has notified the European Commission by submitting a reasoned proposal for an extension, no later than four months before expiry of the five-year period and, the European Commission has not objected it within one month;
2. (amended, SG No. 20/2021) three years from the amendment of the applicable Recommendation of the European Commission on the relevant markets for products and services in the electronic communications sector which defines the relevant markets that have not yet been defined by the European Commission as subject to ex ante regulation.

(2) (Amended, SG No. 20/2021) In case the Commission does not complete the analysis of the relevant market within the time limits referred to in Paragraph (1), the Commission may approach the Body of European Regulators for Electronic Communications with a request for assistance in completing the analysis of the relevant market and in determining the specific obligations to be imposed. In such case the Commission shall submit the draft decision to the European Commission within 6 months after expiry of the terms under Paragraph (1) and in compliance with the procedure under Article 42.

(3) (New, SG No. 20/2021) The Commission shall monitor the development of the relevant market, taking into account the impact of emerging factors affecting competitive dynamics, such as trade agreements, including co-investment agreements.

(4) (New, SG No. 20/2021) When the market development under Paragraph (3) is not significant enough to require a new market analysis under Article 151, the Commission shall immediately assess whether it is necessary to review the obligations imposed on undertakings with a significant power on a relevant market, and may amend any of its previous decisions, including by waiving obligations or imposing new obligations, to ensure that these obligations continue to meet the conditions set out in Article 157. Such changes shall be imposed only after the procedures pursuant to Articles 36 and 42.

**Article 157b.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021)

(1) The Commission, together with one or more national regulatory authorities of other Member States of the European Union, may make a reasoned request, including evidence, to the Body of European Regulators for Electronic Communications to carry out an analysis of a potential cross-border market. Cross-border markets shall be defined by a decision of the European Commission.

(2) In case of cross-border markets under Paragraph (1), the Commission and the respective national regulatory authorities of other Member States of the European Union shall jointly perform market analysis, taking into account the applicable guidelines of the European Commission for market analysis and assessment of significant market power, and take a coherent decision on imposing, continuing, amending or repealing specific obligations under Article 156 (1). The Commission and the respective national regulatory authorities of other Member States of the European Union shall

jointly notify the European Commission of the measures to be adopted in connection with the market analysis and the regulatory obligations pursuant to Articles 42, 42a and 42b.

(3) The Commission and the relevant national regulatory authorities of other Member States of the European Union may jointly notify the European Commission of the measures they plan in relation to market analysis and regulatory obligations in the absence of cross-border markets where they consider that the market conditions in the European Union member states concerned are sufficiently homogeneous.

**Article 157c.** (New, SG No. 20/2021) (1) The Commission, together with one or more national regulatory authorities of other Member States of the European Union, may make a reasoned request to the Body of European Regulators for Electronic Communications to analyse cross-border demand from end-users of products and services provided in the European Union in one or more markets set out in the applicable Recommendation of the European Commission on the relevant markets for products and services in the electronic communications sector. The request must be supported by the relevant evidence of a serious demand problem.

(2) The Commission shall take the utmost account of the guidelines of the Body of European Regulators for Electronic Communications on the general approaches to the identified cross-border demand, including, if necessary, when specific obligations under Article 166 are imposed.

## **Chapter Ten**

### **ACCESS AND INTERCONNECTION**

#### **Section I**

#### **General Dispositions**

**Article 158.** (Amended, SG No. 20/2021) Operators shall have the right and, where requested by another operator – the obligation to, negotiate interconnection of their networks for the provision of public electronic communications services and the ensuring of interoperability between services.

**Article 159.** (1) (Amended, SG No. 20/2021) Operators shall be free to negotiate access and/or interconnection and enter into a written contract.

(2) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The operators shall ensure access and/or interconnection in compliance with the obligations imposed by the Commission, where such have been determined.

(3) (Renumbered from Paragraph (2), SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The operators shall forward a copy of the contract or of the amendments thereof to the Commission, for information, within one month from the signature thereof.

**Article 160.** (Amended, SG No. 1/2011, effective 29.12.2011) (105) (Amended and supplemented, SG No. 20/2021) To achieve the objectives under Article 4 and in compliance with the principles under Article 5, the Commission shall encourage and, where necessary, impose on the undertakings providing public electronic communications networks and/or services, obligations for access and/or interconnection of services, with a view to promoting efficiency, sustainable competition, efficient investment and innovation, deploying very high capacity networks and, ensuring maximum benefit to end users.

(2) In addition to the obligations which the Commission may impose on an undertaking with significant market power according to the procedure established by Chapter Nine herein, in connection with Paragraph (1) the Commission may impose obligations such as:

1. (amended, SG No. 20/2021) obligations –to the extent needed to ensure end-to-end connectivity – on undertakings that have submitted a notification under Article 66 (1), controlling the access to end-users, including in justified cases, obligations to interconnect the networks thereof, where this has not already been the case;

2. (amended, SG No. 20/2021) in justified cases and to the extent necessary, obligations on undertakings that have submitted a notification under Article 66 (1), controlling the access to end users, to make the services thereof interoperable;

3. (amended, SG No. 20/2021) obligations – to the extent necessary to ensure accessibility for end-users to transmission services for digital radio and TV broadcasting as well as to additional services related thereto determined by the Commission – on operators to ensure access to application program interfaces and to electronic programme guides on fair, objective and equal terms;

4. (new, SG No. 20/2021) in justified cases where end-to-end connectivity between end-users is jeopardized by the lack of interoperability between interpersonal communications services and, to the extent necessary to ensure end-to-end connectivity between end-users, obligations for the relevant providers of number-independent interpersonal communications services with a significant degree of coverage and distribution among users, to make the services thereof interoperable.

(3) (New, SG No. 20/2021) The obligations under Item 4 of Paragraph (2) may be imposed only:

1. to the extent necessary to ensure the interoperability of interpersonal communications services, and may include proportionate obligations for providers of such services to publish and authorize the use, modification and re-dissemination of the relevant information by the Commission or other competent authorities and providers or, an obligation to use and apply standards or specifications pursuant to Article 280;

2. where the European Commission has adopted implementing measures specifying the nature and scope of the obligations that may be imposed.

(4) (New, SG No. 20/2021) The Commission shall draw up guidelines and publish on its website the procedures applicable to access and interconnection to ensure that small and medium sized enterprises and operators with limited geographical coverage can benefit from the obligations imposed.

**Article 160a.** (New, SG No. 20/2021) (1) Upon a reasonable request, without prejudice to Article 160, the Commission may impose obligations to provide access to electrical installations, cables and associated facilities in buildings or to the first concentrator or distribution point determined by the Commission, when such point is located outside the building. Where duplication of such network elements would be economically unprofitable or physically impossible, these obligations may be imposed on the providers of electronic communications networks or on the owners of those installations, cables and associated facilities, where those owners are not providers of electronic communications networks.

(2) The obligations imposed for the provision of access may include rules on:

1. access to the relevant network elements and the associated facilities and services;

2. transparency and equal treatment;

3. allocation of access costs which shall be changed where it is necessary to take into account the risk factors.

(3) The Commission, taking into account the obligations determined on the basis of an analysis of the relevant market under Article 151, and accepting that the obligations imposed under Paragraph (1) are not sufficient to overcome the serious and persistent economic or physical barriers leading to duplication of network elements and, such barriers underlie an existing or emerging market situation that significantly restricts the choice of end-users, may extend the access obligations under Paragraph (1), under fair and reasonable conditions. The Commission may also impose obligations to provide access outside the first concentration or distribution point, to a point which the Commission considers to be closest to the end-users and capable of serving a sufficient number of end-users so that it is economically viable for the user seeking efficient access.

(4) If justified by technical impracticability or from an economic point of view, the Commission may impose obligations for access to active network elements or for virtual access.

(5) The Commission shall not impose obligations on providers of electronic communications networks in accordance with Paragraphs 3 and 4, when it finds that:

1. the provider has the characteristics under Article 172j (1) and provides each undertaking with reliable and similar alternative means of reaching the end-users by providing access to a very high capacity network on the basis of fair, non-discriminatory and objective conditions; the Commission may extend such exemption to other providers offering access to a very high capacity network on fair, non-discriminatory and objective terms, or



2. the imposition of obligations would hamper the economic or financial efficiency of the deployment of a new network, especially for small projects.

(6) Outside the cases under Item 1 of Paragraph (5) the Commission may impose obligations on the providers of electronic communications networks which meet the criteria under Item 1 of Paragraph (5) where the network is financed with public funds.

(7) In applying Paragraphs (1) – (6) the Commission shall take the utmost account of the applicable guidelines of the Body of European Regulators for Electronic Communications.

**Article 160b.** (New, SG No. 20/2021) (1) The Commission may impose obligations on operators in relation to physical infrastructure sharing or obligations to conclude roaming access agreements in a limited area, if directly necessary for the provision of services using radio frequency spectrum at local level, in accordance with the law and provided that no reliable and similar alternative means of access to end-users are made available to any undertaking, on the basis of fair and reasonable conditions.

(2) The Commission may impose obligations under Paragraph (1) only when this possibility is provided for in the granting of rights for use of radio frequency spectrum and when in the area, subject to such obligations, the market-oriented deployment of the infrastructure for provision of networks or services, based on the use of radio frequency spectrum, is subject to insurmountable economic or physical barriers and therefore, the access to networks or services by end-users is severely hampered or such access is not available.

(3) In cases where the access and sharing of physical infrastructure for the deployment of electronic communications networks alone are not sufficient, the Commission may impose obligations for the sharing of active elements of an electronic communications network.

(4) When imposing obligations under Paragraphs 1 – 3 the Commission shall take into account:

1. the need to maximize connectivity within the European Union along major transport routes and in specific territories, as well as the opportunity to significantly increase the choice and improve the quality of service for end-users;

2. the efficient use of the radio frequency spectrum;

3. the technical feasibility of the sharing and the related conditions;

4. the state of competition in terms of infrastructure and services;

5. technological innovations;

6. the overriding need to support the incentive of the receiving network operator to deploy the infrastructure as a matter of priority.

(5) In resolving disputes, the Commission may impose on the undertaking benefiting from an imposed obligation for sharing or access, an obligation to share radiofrequency spectrum with the infrastructure holder in the area concerned.

**Article 160c.** (New, SG No. 20/2021) (1) The obligations and conditions imposed in accordance with Articles 160 – 160b, should be objective, transparent and proportional, should not allow discrimination and should be implemented in accordance with the procedures provided in Articles 36, 42 and 42b.

(2) Where the Commission has imposed obligations and conditions in accordance with Articles 160 – 160b, it shall evaluate the results thereof within 5 years after the adoption of the measures under Paragraph (1) in connection with the same undertakings and, shall assess whether it is expedient to cancel or amend them in view of changed conditions.

(3) The Commission shall announce the result of its assessment under Paragraph (2) in accordance with the procedures referred to in Articles 36, 42 and 42b.

(4) In determining the network termination point in different network topologies, the Commission shall take the utmost account of the applicable guidelines of the Body of European Regulators for Electronic Communications.

**Article 160d.** (New, SG No. 20/2021) (1) The provision of access to a public electronic communications network through local radio networks with the use of the harmonized radio frequency spectrum shall be carried out only in compliance with the applicable requirements in the rules under Article 66 (3).

(2) Where the granting of access under Paragraph (1) is not part of an economic activity or is in addition to an economic activity or a public service, which is not dependent on the transmission of signals on these networks, the requirements of Article 66 (1), the obligations for interconnection under Article 160 and the obligations under Chapter Fourteen shall not apply to the undertakings, the public sector organizations, the non-governmental organizations or the end users providing such access.

(3) Undertakings providing public electronic communications networks or services may provide access to their networks via local radio networks located at an end-user's premises, with the prior informed consent of the end-user and subject to the applicable general requirements.

(4) Undertakings providing public electronic communications networks or services shall not have the right to unilaterally restrict or obstruct end-users:

1. to have access of their choice to local radio networks provided by third parties, or
2. to allow reciprocal or more general access to providers' networks by other end-users through local radio networks, including on the basis of third-party initiatives that combine and make publicly available local radio networks of different end-users.

(5) End-users shall have the right to reciprocally or otherwise grant access of other end-users to their local radio networks, including on the basis of third-party initiatives that combine and make publicly available local radio networks of different end-users.

(6) The competent authorities shall not unreasonably impose restrictions on the provision of public access to local radio networks:

1. by public sector organizations or in public spaces close to the premises occupied by those organizations, where the provision of access is in addition to the public services provided on those premises;
2. at the initiative of non-governmental organizations or organizations from the public sector for combining of local radio networks of different end users, including local radio networks to which public access is provided pursuant to Item 1.

(7) The responsibility of the persons who provide access under Paragraphs (1), (4) and (5) shall be limited under the conditions of Article 13 of the Electronic Commerce Act.

**Article 161.** (Repealed, SG No. 20/2021).

**Article 162.** (1) (Amended, SG No. 20/2021) The undertakings providing public electronic communications network or services and the staff thereof, who obtain information from other undertakings before, during or after negotiations for access or interconnection, shall respect the requirements for confidentiality with regard to the information provided or stored and shall use the said information solely for the purposes for which it was intended.

(2) (Amended, SG No. 20/2021) The information under Paragraph (1) shall not be provided to third parties, including other internal structures, subsidiaries or partners, to which it could provide competitive advantages.

(3) The undertakings providing public electronic communications network and/or services shall be obligated to provide the information referred to in Paragraph (1) relating to access and/or interconnection to the Commission for exercise of the powers thereof under this Chapter.

**Article 162a.** (New, SG No. 20/2021) Undertakings may use independent intermediaries when negotiating access or interconnection where the conditions of competition so require.

**Article 163.** (Amended, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021) The Commission may, on its own initiative and where justified with a view to attaining the purposes covered under Article 4 herein, intervene in matters of access and/or interconnection respecting the principles referred to in Article 5 and the requirements of this Act, including the procedure under Article 37.

**Article 164.** The terms and procedure for establishment of access and/or interconnection shall be established by an ordinance adopted by the Commission, which shall be promulgated in the State Gazette.

**Article 165.** (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Undertakings providing public electronic communications networks or services within the

territory of another Member-State of the European Union but do not provide services and do not maintain networks on the territory of the Republic of Bulgaria, may request access or interconnection under this Chapter.

## **Section II**

### **Specific Obligations for Access and Interconnection (Heading amended, SG No. 105/2011, effective 29.12.2011)**

**Article 166.** (1) (Amended, SG No. 20/2021) The Commission may impose, continue, amend or withdraw specific obligations on undertakings with significant market power on a relevant market to provide efficient access and/or interconnection and interoperability of services to the benefit of end-users and to encourage efficient competition.

(2) The Commission may impose the following obligations referred to in Paragraph (1) for attainment of the purposes covered under Article 4 herein:

1. transparency;
2. non-discrimination;
3. accounting separation;
4. (amended, SG No. 20/2021) access to and use of necessary network elements and associated facilities;
5. price controls, including obligations relating to cost orientation;
6. (new, SG No. 20/2021) access to physical infrastructure, buildings and physical infrastructure in buildings;
7. (new, SG No. 20/2021) compliance with the terms on proposals of undertakings to make commitments on cooperation arrangements for co-investments in new networks with very high capacity or for efficient and equitable access by third parties in the event of voluntary separation from a vertically integrated undertaking.

(3) (New, SG No. 20/2021) The Commission may impose, amend or revoke obligations in the case of:

1. voluntary separation from a vertically integrated undertaking;
2. migration from existing infrastructure;
3. proposals for co-investment commitments for the deployment of new networks with very high capacity in relation to the specific regulatory treatment of the new network elements;
4. only wholesale undertakings.

(4) (New, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (3), amended, SG No. 20/2021) For achieving the purposes under Article 4 herein, the Commission may, in exceptional cases, impose functional separation and other obligations for access and/or interconnection, except those provided in Items 1 – 6 of Paragraph (2), after obtaining the consent of the European Commission.

(5) (Renumbered from Paragraph (3), SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (4), SG No. 20/2021) In implementing the functions thereof referred to in Paragraph (1), the Commission shall respect the principles of objectivity, transparency, proportionality, and non-discrimination.

**Article 167.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The obligation to ensure transparency shall involve publication of specified information such as: financial statements, prices, technical specifications, network characteristics and the expected development thereof, as well as the terms and conditions for provision and use, including any conditions that alter access to or use of services and applications, in particular migration from the existing infrastructure.

(2) The Commission may specify the content of the information which must be published, the level of detail required, and the manner of publication, taking into consideration the need to safeguard business secrets.

(3) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) In case that an obligation for equality has been imposed to an undertaking under of Article 166 (1), in addition to the obligation under Paragraph 1, the Commission may require from such

undertaking to publish a standard proposal, which shall contain a description of the respective services and their individual components according to the market needs, as well as the related conditions and prices. The model proposal may not include requirements to undertakings to use ancillary services and facilities that are not necessary for the requested service, as well as to pay for such services and facilities.

(4) (Amended, SG No. 20/2021) The Commission shall adopt in a decision the minimum content of the standard proposal after conducting a public consultation under Article 36.

(5) (Amended, SG No. 20/2021) In determining the minimum content under Paragraph 4 the Commission shall take the utmost account of the applicable guidelines of the Body of European Regulators for Electronic Communications.

(6) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The Commission shall impose on the undertaking providing public electronic communications networks, on which an obligation under Items 4 or 6 of Article 166 (2), to publish a standard proposal in connection with providing wholesale access to network infrastructure. Where necessary, the Commission shall define key performance indicators and the relevant levels of service and ensure their compliance and, including, the Commission may determine in advance compensation for the non-compliance of the said performance indicators and levels of service.

(7) By decision adopted according to the procedure established in Article 37 herein respecting the principles covered under Article 5 herein and for attainment of the purposes covered under Article 4 herein, the Commission shall approve without remarks the reference offers or shall obligate the undertakings to amend the reference offers thereof.

(8) The individual agreements concluded between the undertakings may not conflict with the reference offer.

(9) The reference offer may be amended on the initiative of the obligated undertaking or of the Commission according to the procedure established by Paragraph (7).

**Article 168.** (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The obligation to ensure equality shall ensure that the obligated undertaking applies a level playing field in equivalent circumstances and provides services and information to other undertakings providing equivalent electronic communications services, under the same conditions and of the same quality as its own units, subsidiaries or partners.

**Article 169.** (1) The obligation to ensure accounting separation may be imposed upon provision of access and/or interconnection.

(2) In case an obligation of non-discrimination under Article 168 herein has been imposed, the Commission may oblige a vertically integrated undertaking to ensure transparency of the wholesale prices of services and of the internal transfer prices.

(3) The Commission may also impose the obligation under Paragraph (2) where it considers that there exists an opportunity for violation of the prohibition of cross-subsidy.

(4) (Amended, SG No. 20/2021) The Commission may, after consultations with the undertaking concerned, specify the format and the accounting methodology.

(5) (Amended, SG No. 20/2021) Without prejudice to the requirements for the provision of information by undertakings under this Act and in order to ensure compliance with the obligations of transparency and equality, the Commission may require from the undertakings providing public electronic communications networks, accounting data and information, including also revenues received from third parties.

(6) (Amended, SG No. 20/2021) The Commission may publish the information received where this would contribute to creating conditions for the development of an open and competitive market, in compliance with the requirements for protection of trade secrets.

**Article 169a.** (New, SG No. 20/2021) (1) The obligation to comply with justified requests for access to and use of physical infrastructure, including buildings or approaches to buildings (including electrical installations, antennas, towers and other supporting structures, poles, masts, ducts, pipelines, control rooms, shafts and boxes), shall be imposed by the Commission where, after the analysis under Article 151, it is established that the refusal of access or the unreasonable

conditions with a similar effect would impede efficient competition and are not in the interests of end-users.

(2) The Commission may impose obligations under Paragraph (1) on an undertaking regardless of whether the assets affected by the obligation are part of the relevant market, provided that the obligation is necessary and proportional in view of the achievement of the objectives under Article 4.

**Article 170.** (1) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The obligation of cost orientation for specified types of access and/or interconnection shall include cost based determination of prices, including when implementing a costing system with a view to ensuring efficient and sustainable competition and maximizing user benefits.

(2) (Amended, SG No. 20/2021) The obligation under Paragraph (1) shall be applied where the Commission ascertains, on the basis of the analysis under Article 151 herein, a lack of efficient competition on the market due to the presence of an undertaking with significant market power which might sustain prices at an excessively high level or apply a price squeeze to the detriment of end-users.

(3) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) Upon imposition of the obligation under Paragraph (1), the Commission shall take into account the need to promote competition and the long-term interests of end-users in relation to the deployment and use of next generation networks, in particular very high capacity networks.

(4) (New, SG No. 20/2021) Upon imposition of obligations for price control the Commission shall take into consideration the investments made by the undertaking, including in next generation networks, giving the opportunity to the undertaking to realize an acceptable level of return on invested capital, taking into account the specific risks to a particular new network investment project.

(5) (New, SG No. 20/2021) The Commission shall consider the possibility to cancel or not impose obligations under Paragraph (1), if it establishes that there is obvious competitive pressure on the retail prices and that the imposed obligations under Items 1 – 4 and Item 6 of Article 166 (2), including a test for economic reproducibility, guarantee efficient and equal access.

(6) (New, SG No. 20/2021) In imposing price control obligations relating to access to existing network elements, the Commission shall take into account the benefits of predictable and stable wholesale prices to ensure successful market entry and sufficient incentives for all undertakings to implement new and improved networks

(7) (Amended, SG No. 17/2009, renumbered from Paragraph (4), supplemented, SG No. 20/2021) The obligation relating to price controls for the provision of specific types of access and/or interconnection may include applying a price cap, pricing on the basis of a comparative analysis between the prices set by the undertaking and the prices for the same services in comparable competitive markets of other Member States of the European Union, and/or determining a plan for gradual reduction of the prices for a specified period of time after which the level of prices must reach a pre-set level. Any imposed cost recovery mechanisms or pricing methodologies should contribute to enhancing the deployment of new and improved networks, the efficiency and the sustainable competition and, to bring maximum sustainable benefits to end-users.

**Article 171.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) Where an obligation for cost orientation has been imposed on an undertaking providing public electronic communications networks, in applying the cost accounting system developed by the said undertaking, the burden of proof that the charges set thereby are derived from costs, including a reasonable rate of return on investment, shall lie with the undertaking concerned.

(2) (Amended, SG No. 105/2011, effective 29.12.2011) For the purpose of calculating the cost of efficient provision of services, the Commission may use cost accounting methods independent of the methods used by the undertaking concerned.

(3) The Commission may require the undertaking referred to in Paragraph (1) to provide full justification of the prices and, where necessary, to adjust the said prices.

**Article 172.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) An undertaking on which an obligation has been imposed to develop and implement a cost accounting system, shall

make a description of the said system publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs.

(2) (Amended, SG No. 95/2016, SG No. 20/2021) The Commission shall assign, to a registered auditor pursuant to the Independent Financial Audit Act, an inspection of the application of the cost determination system. In case it has the required qualified staff, the Commission may perform independently the inspection of the application of the cost determination system. The results of the inspection shall be published annually.

**Article 172a.** (New, SG No. 105/2011, effective 29.12.2011) (1) The Commission may impose an obligation on a vertically integrated undertaking with significant market power in a relevant market to place activities related to the wholesale provision of access services in an independently operating undertaking.

(2) The Commission may impose the obligation referred to in Paragraph (1) where it ascertains that the obligations imposed under Article 166 (1) and (2) herein have failed to achieve effective competition and that there are important and persisting competition problems and/or distortion of relevant markets for wholesale access.

(3) The obligation referred to in Paragraph (1) shall be imposed in proportion to the problem which has arisen and in accordance with the purposes covered under Article 4 herein as an exceptional measure.

(4) The separated undertaking referred to in Paragraph (1) shall supply wholesale access services to all undertakings, including to related parties, on the same terms and conditions, including prices and timescales.

(5) The Commission shall impose the obligation referred to in Paragraph (1) after conduct of a public consultation according to the procedure referred to in Article 36 and after authorization by the European Commission.

**Article 172b.** (New, SG No. 105/2011, effective 29.12.2011) (1) In case the Commission intends to impose an obligation under Article 172a (1) herein for functional separation, it shall transmit a decision to the European Commission which shall include the draft measure accompanied by:

1. evidence justifying the conclusions that the obligations imposed under Article 166 herein have failed to achieve effective competition;
2. a reasoned assessment that there is no or little prospect of effective and sustainable infrastructure-based competition;
3. an analysis of the expected impact on the Commission, on the undertaking whereon the obligation is imposed, on the workforce employed in the separated undertaking, on other interested parties, on incentives to invest in the sector, particularly with regard to the need to ensure social and territorial development, on competition, as well as any potential entailing effects on consumers;
4. an analysis of the reasons justifying that this obligation would be the most efficient means to address the competition problems identified in the relevant market.

(2) The draft of a decision referred to in Article 172a (1) herein shall include:

1. a description of the measure, specifying the level of separation and the legal form of the separated undertaking;
2. a description of the assets of the separated undertaking and of the networks and/or services to be supplied thereby;
3. the governance arrangements to ensure the independence of the separated undertaking, including in respect of the staff employed, as well as independence in decision making;
4. identification of the specific obligations of the separated undertaking, including requirements for compliance with the said obligations;
5. rules for the purpose of ensuring a possibility to monitor compliance with the obligations identified, including requirements to the separated undertaking to publish an annual report;
6. (new, SG No. 20/2021) rules to ensure transparency of operational procedures to other stakeholders.

**Article 172c.** (New, SG No. 105/2011, effective 29.12.2011) (1) If the European Commission adopts a favourable decision on the draft of a decision referred to in Article 172b herein, the Commission shall conduct a coordinated analysis and assessment of the markets impacted by the development of the access network according to the procedure established by Article 151 herein.

(2) On the basis of the analysis and assessment conducted under Paragraph (1), the Commission shall impose, maintain, amend or withdraw specific obligations according to the procedure established by Article 42 herein.

**Article 172d.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission may impose, on an undertaking with an obligation for functional separation, all or any of the obligations under Items 1 – 6 of Article 166 (1) and (2) in a relevant market for which the said undertaking has been designated as an undertaking with significant market power.

**Article 172e.** (New, SG No. 105/2011, effective 29.12.2011) (1) In case an undertaking with significant market power on one or several relevant markets intends to transfer all or part of the local access network assets thereof to an unrelated legal person or to establish a separate legal entity for provision of access on equivalent terms to all undertakings providing retail services, including to its own retail divisions, the said undertaking shall inform the Commission of the said intent three months in advance.

(2) The undertaking referred to in Paragraph (1) shall notify the Commission of the final outcome, as well as of any change of the intents thereof.

(3) (New, SG No. 20/2021) The undertakings under Paragraph (1) may offer commitments under Article 172i regarding the access conditions to be applied to their network for a certain period after the proposed form of separation has been applied, in order to ensure efficient and equitable access of third parties.

(4) (New, SG No. 20/2021) The proposal to undertake a commitment under Paragraph (3) shall contain all essential conditions, including the deadlines and the duration, in order to ensure the fulfilment of the powers of the Commission under Article 172e (1) – (3).

(5) (New, SG No. 20/2021) The term for implementation of the commitments may be longer than the one set out in Article 157a (1).

**Article 172f.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021)

(1) The Commission shall assess the impact of the transfer of assets from the subscriber access network, together with the proposed commitments, where applicable, on the existing regulatory obligations. For this purpose, the Commission shall conduct an analysis of the various markets related to the subscriber access network, pursuant to Article 151.

(2) The Commission shall take into account all proposed commitments, in particular those meeting the objectives of Article 4. The Commission shall conduct public consultations under Article 37 with third parties that are directly affected by the planned transaction.

(3) On the basis of the analysis and the assessment under Paragraph (1), the Commission shall impose, continue, amend or withdraw obligations of an undertaking under Article 172e (1). By the decision the Commission may give binding force in whole or in part to the proposed commitments in accordance with the provisions of Article 172i (5) – (7).

(4) Without prejudice to the provisions of Article 172k, the Commission may impose on the undertaking, which has acquired assets from a subscriber access network, all or some specific obligations under Paragraphs (1) and (2) of Article 166 or other obligations authorized by the European Commission pursuant to Paragraph (8) of Article 156 where all proposed commitments are insufficient for the achievement of the objectives under Article (4).

(5) The Commission shall monitor the implementation of the commitments proposed by the undertakings, which have been given binding force under Paragraph (3), pursuant to Paragraph (9) of Article 172i.

**Article 172g.** (New, SG No. 20/2021) (1) The undertakings with significant market power on one or several relevant markets may offer commitments, under Article 172i and in compliance with Paragraph (3), to allow co-investments in the deployment of new networks with very high capacity, which provide optical connectivity to premises of end users or to a base station.

- (2) The commitment under Paragraph (1) may include offering co-ownership or long-term risk sharing with other providers of electronic communications networks or services through co-financing or through redemption agreements that provide specific rights of structural nature.
- (3) When the Commission evaluates the commitments under Paragraph (1), it shall establish whether a proposal for co-investments complies with the following conditions:
1. the proposal is valid at any point in the life cycle of the network for each provider of electronic communications networks or services;
  2. the proposal would enable co-investors to compete efficiently in a sustainable and long-term way in the downstream markets in which the undertaking is active with a significant power on a relevant market under:
    - a) fair, reasonable and non-discriminatory conditions enabling access to the full capacity of the network, to the extent that it is the subject of co-investment;
    - b) flexibility in terms of the size and deadlines of participation of each individual co-investor;
    - c) an opportunity to increase participation in the future, and
    - d) granting reciprocal rights by co-investors after the deployment of the infrastructure covered by the co-investment;
  3. the proposal shall be announced in due time by the undertaking and if the undertaking does not meet the conditions under Article 172j (1) at least 6 months before starting the deployment of the new network;
  4. The applicants for access not participating in the co-investment should be able to enjoy the same quality, speed, conditions and access to end-users as before the deployment of the new network, accompanied by an adaptation mechanism over time, confirmed by the Commission depending on the development of the related retail markets, which maintains the incentives to participate in the co-investment; the mechanism ensures that the applicants for access have access to network elements with a very high capacity at any time and on the basis of transparent and non-discriminatory conditions, adequately reflecting the degree of risk taken by the relevant co-investors at different stages of deployment and given the competition on retail markets;
  5. the proposal must meet at least the criteria set out in Article 172h, and to be addressed in good faith.
- (4) When the commission finds that the proposed co-investment commitment meets the conditions under Paragraph (3), it may give binding force to such commitments, following the procedure under Article 172i, whereby it shall not impose additional obligations under Items 1 – 6 of Article 166 (2) with regard to the elements of the new network with very high capacity, which are subject to the commitments, if at least one potential co-investor has concluded a co-investment agreement with an undertaking with significant market power on a relevant market.
- (5) The application of Paragraph (4) shall not affect the regulatory treatment of the commitments which do not meet the conditions under Paragraph (3), taking into account the results of the public consultation under Article 172i (4) but which have an impact on the competition and have been taken into account for the purposes of the application of Articles 152, 154 and 166.
- (6) Outside the cases under Paragraph 5, the Commission, in justified cases may impose, keep or amend specific obligations in accordance with Items 1 – 6 of Article 166 (1) and (2) in respect of new very high capacity networks, in order to solve significant problems related to competition in certain markets, where the Commission finds that otherwise, given the specific characteristics of these markets, the problems related to competition would not be allowed.
- (7) The Commission shall monitor the observance of the conditions under Paragraph (3) and may require from the undertaking with significant market power to provide it with annual reports for the observance of the said conditions.
- (8) The Commission may adopt a decision pursuant to Article 54 in case of a dispute that has arisen between undertakings in connection with an agreement for co-investments, which meets the conditions under Paragraph 3.



(9) For the consistent application of the conditions under Paragraph (3) and the criteria under Article 172h the Commission shall take into account the relevant guidelines of the Body of European Regulators for Electronic Communications.

**Article 172h.** (New, SG No. 20/2021) (1) When evaluating proposals for co-investment in accordance with Article 172i (1) – (3), the Commission shall check whether at least the following criteria are fulfilled:

1. the co-investment proposal shall be valid for all undertakings expressing an interest during the life cycle of a network set up under the co-investment proposal, in compliance with the principle of equality; the undertaking with significant market power may include in the proposal reasonable conditions regarding the financial capabilities of the undertakings, according to which potential co-investors must demonstrate that they are able to make the deferred payments on the basis of which the deployment is planned and, that they have adopted a strategic plan, which is a basis for preparation of the medium-term construction plans;

2. the co-investment proposal shall be transparent where:

a) it is easily accessible on the website of the undertaking with significant market power on a relevant market;

b) any potential participant who has expressed an interest shall be provided, without undue delay, with comprehensive and detailed conditions, including the legal form of the co-investment agreement and, where appropriate, the management rules for the co-investment, and

c) the details of the process itself, such as a roadmap for the creation and development of the co-investment project, must be pre-defined, clearly explained in writing and provided to all potential co-investors; all important stages must be clearly communicated to all undertakings without discrimination;

3. the co-investment proposal shall include conditions for potential co-investors that facilitate the sustainable long-term competition, in particular:

a) all undertakings are offered fair, reasonable and non-discriminatory rules and conditions for participation in a co-investment agreement relevant at the time of their accession, including with regard to:

aa) the financial contribution required for the acquisition of certain rights of the parties, both during the construction phase and during the operational phase, such as irrevocable rights of use over the projected life cycle of the network subject to the co-investment;

bb) the conditions for accession to the co-investment agreement and for a possible termination thereof; non-discrimination shall not mean that all potential co-investors are offered completely identical conditions, including financial ones, but that all differences in the proposed conditions are based on the same objective, transparent, non-discriminatory and predictable criteria, such as the number of end user lines for which a commitment has been undertaken;

b) The proposal shall allow flexibility in terms of the value and timing of commitments offered by each co-investor, and should allow for the gradual inclusion and implementation of commitments so that co-investors with limited resources join the co-investment with a reasonable minimum share and gradually increase their participation while ensuring an appropriate level of the initial commitment; the financial contribution to be provided by each co-investor shall be determined taking into account the fact that the investors involved earlier take more risk and invest at an earlier stage;

c) the increase in the amount of the premium over time shall be considered justified when the commitment is made at a later stage, in the same way as for the new co-investors who join the co-investment after commencement of the project, so as to reflect the risk reduction and encourage investment in the earlier stages;

d) the co-investment agreement shall allow the transfer of rights acquired by the co-investors to other co-investors or to third parties wishing to join the agreement, the acquirer undertaking to fulfil all the original obligations of the transferor pursuant to the co-investment agreement;

e) the co-investors shall grant each other reciprocal rights under fair and reasonable conditions for access to the infrastructure subject to the co-financing for the purpose of providing downstream services, including end-users, in accordance with transparent conditions clearly set out in the co-

financing proposal and in the subsequent agreement, in particular where the co-investor are individually and separately responsible for the construction of specific parts of the network; in the event that a co-investment mechanism is set up, it shall provide all co-investors with direct or indirect access to the network on the basis of equivalence of investment and in accordance with fair and objective conditions, including financial conditions, that reflect the different levels of risk for individual co-investors;

4. the co-investment proposal shall guarantee sustainable investments that meet future needs by building new network elements that contribute significantly to the deployment of very high capacity networks.

(2) The Commission may consider additional criteria required to ensure accessibility of potential investors to co-financing, depending on the specific conditions and market structure.

**Article 172i.** (New, SG No. 20/2021) (1) Undertakings with significant market power on a relevant market may offer commitments to the Commission in relation to the access conditions and/or co-financing applicable to their networks, including with regard to:

1. cooperation agreements relevant to the assessment of the appropriate and proportional obligations pursuant to Article 166;

2. co-investments in networks with very high capacity according to Article 172g, or

3. efficient and equal access of third parties pursuant to Articles 172e and 172f, both during the period of implementation of the voluntary separation from a vertically integrated undertaking and after the implementation of the proposed form of separation.

(2) The proposal under Paragraph (1) must contain detailed information, including regarding the terms, the scope of implementation and the duration of the commitments, in order to enable the Commission to perform its assessment under Paragraphs (3) – (5). The deadline for implementation of such commitments may not exceed the periods for carrying out the market analysis under of Article 157a (1).

(3) In the assessment of the liabilities in accordance with Article 157 with regard to the commitments under Paragraph (1) the Commission shall pay special attention to:

1. evidence of the fair and reasonable nature of the proposed commitments;

2. whether such commitments are valid for all market participants;

3. the timely provision of access under fair, reasonable and non-discriminatory conditions, including to very high capacity networks, before commencement of the provision of relevant retail services, and

4. the possibility of the proposed commitments to create sustainable competition in the downstream markets and the facilitation of the joint deployment and use of very high capacity networks in the interests of end-users.

(4) The Commission shall conduct a public consultation with the interested third parties directly affected by the commitments under Paragraph (1), except where such commitments obviously do not fulfil one or more of the applicable conditions or criteria under this Act. Potential co-investors or applicants for access may express opinion on the proposed commitments.

(5) Taking into account all the opinions expressed during the consultation under Paragraph (4), and the extent to which such opinions are representative of the various stakeholders, the Commission shall inform the undertaking with a significant market power on a relevant market of its preliminary conclusions as to whether the proposed commitments meet the objectives, criteria and procedures set out in this Act, as well as the conditions under which the commitments can be given binding force. An undertaking may revise its initial proposal to take into account the Commission's preliminary conclusions.

(6) Without prejudice to Article 172g (4), the Commission by decision may fully or partially give to the commitments binding force.

(7) Outside the cases under Article 157a (1) the Commission may give binding force to some or all commitments for a certain period, which may cover the entire duration of the period for which they are proposed. The Commission shall give binding force for at least 7 years to co-investment commitments pursuant to Article 172g (4).

(8) Where the Commission gives binding force to the commitments undertaken it shall assess, pursuant to Paragraphs (3) and (4) of Article 157a, the consequences of such decision for the market development and the expediency of each obligation imposed by the Commission or which, in the absence of such commitments, it has intended to impose pursuant to Paragraph (2) of Article 166. Upon the notification under Article 42 for the draft of the respective measure the Commission shall also apply the decision for undertaking commitments.

(9) The Commission shall monitor the compliance with the commitments to which it has given binding force in accordance with Paragraph 6 in the same way as it controls the observance of the obligations imposed under Article 166 and, shall consider the possibility of extending the term for which they have been given binding force after expiry of the initial term. Regardless of the procedure under Article 78, the Commission may re-evaluate the obligations imposed in accordance with Article 157a (3) and (4).

(10) Paragraphs (1) - (9), in compliance with Article 172g, shall not affect the application of the market analysis procedure under Article 150 and the imposition of obligations under Article 166.

**Article 172j.** (New, SG No. 20/2021) (1) Where an undertaking with a significant market power on one or more wholesale markets does not participate in the retail electronic communications services market, the Commission shall assess whether such undertaking meets the following conditions:

1. all companies and structural units within the undertaking, as well as all companies that are controlled but not necessarily wholly owned by the same ultimate owner, and any shareholder who may exercise control over the undertaking, develop their current and plan their future activities only on wholesale electronic communications services markets, therefore they do not operate on retail electronic communications services markets for end users;

2. the undertaking is not bound to operate with an undertaking operating downstream and active in the retail end-user electronic communications services market due to an exclusive rights agreement or another agreement that can be equated to an exclusive rights agreement.

(2) If the Commission finds that the conditions set out in Paragraph (1) are fulfilled it may impose on the respective undertaking only the obligations under Items 2 and 4 of Article 166 (2) or obligations under Item 5 of Article 166 (2), related to fair and reasonable pricing, if such obligations are justified on the basis of a market analysis, including a forecast assessment of a probable behaviour of the undertaking with significant market power on a relevant market.

(3) The Commission shall review the obligations imposed on an undertaking in accordance with Paragraph (2) when it establishes that the conditions set out in Paragraph (1) are no longer fulfilled and, if necessary, shall also impose other obligations provided in Items 1 – 6 of Article 166 (2), after conducting a market analysis under Article 151. The undertaking shall notify the Commission of any change in the circumstances under Paragraph (1), within 14 days from occurrence of the respective circumstance.

(4) Where, on the basis of evidence of the contractual terms offered by an undertaking to its downstream customers, the Commission finds that competition is distorted or may be distorted to the detriment of end-users, the Commission shall amend the obligations imposed in accordance with Paragraph (2) or, impose one or several of the obligations under Items 1, 3, 5 and 6 of Article 166 (2).

(5) The imposition of the obligations and their revision shall be carried out under Articles 36, 42 and 42b.

**Article 172k.** (New, SG No. 20/2021) (1) The undertakings with significant market power on one or more relevant markets shall notify the Commission in advance and in a timely manner when they intend to decommission or replace with new infrastructure parts of the network, including the existing infrastructure necessary for the operation of a copper network, that are subject of the obligations imposed by the Commission under Article 166.

(2) In the notification under Paragraph (1) the undertaking shall include terms and conditions of the decommissioning or replacement process, including an appropriate notice on transition period, as well as the availability of alternative products of at least comparable quality, providing access to the

upgraded network infrastructure to replace the removed elements, if this is necessary to maintain competition and protect the rights of end-users.

(3) The Commission may waive obligations in respect of proposed assets for decommissioning or replacement once the access provider:

1. has provided appropriate conditions for migration, including the provision of an alternative access product of at least comparable quality to the available product using the existing infrastructure, providing access seekers with access to the same end-users, and
2. has complied with the conditions and process submitted to the Commission in accordance with Paragraph (2).

(4) The waiver under Paragraph (3) shall be carried out in accordance with the procedures, set out in Articles 36, 42 and 42b.

(5) Paragraphs (1) – (4) shall be applied without prejudice to the available regulated products, imposed by the Commission, of a modernized physical infrastructure for the deployment of an electronic communications network in accordance with Articles 151 and 166.

**Article 172l.** (New, SG No. 20/2021) The Commission shall take the utmost account of the guidance of the Body of European Regulators for Electronic Communications on the criteria to be met by a network in order to be defined as a very high capacity network, in particular as regards the forward and reverse bandwidth transmission, the stability, the error-related parameters, the delay and its change.

### **Section III**

#### **Access to and Use of Necessary Network Elements and Associated Facilities**

**(Title amended, SG No. 105/2011, effective 29.12.2011, supplemented, SG No. 20/2021)**

**Article 173.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The obligation to provide, upon a reasoned request, access to and use of necessary network elements and/or associated facilities may be imposed on an undertaking with significant market power at the discretion of the Commission, including where denial of access or unreasonable conditions with a similar effect would impede the existence of a sustainable competitive retail market, or would be detrimental to end-users.

**Article 174.** (1) The Commission may impose the obligation referred to in Article 173 herein, requiring thereby:

1. (amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) provision of third party access to certain network elements and/or associated facilities, including unbundled access to a local loop or part thereof;
2. (new, SG No. 20/2021) provision of access to third parties of specific active network elements and services or, for virtual access;
3. (renumbered from Item 2, SG No. 20/2021) good faith negotiation with undertakings requesting access;
4. (renumbered from Item 3, supplemented, SG No. 20/2021) preserving of the provided access to facilities;
5. (renumbered from Item 4, SG No. 20/2021) provision of specified wholesale services for resale by third parties;
6. (renumbered from Item 5, SG No. 20/2021) granting open access to technical interfaces, protocols or other key technologies required for the interoperability of services or the provision of virtual network services;
7. (amended, SG No. 105/2011, effective 29.12.2011, renumbered from Item 6, SG No. 20/2021) provision of co-location and other forms of sharing of associated facilities;
8. (renumbered from Item 7, amended, SG No. 20/2021) provision of specified services needed to ensure interoperability of end-to-end services to users, or roaming on mobile networks;
9. (renumbered from Item 8, SG No. 20/2021) provision of access to operational support systems or similar software systems to ensure effective competition in the provision of services;

10. (amended, SG No. 105/2011, effective 29.12.2011, renumbered from Item 9, amended, SG No. 20/2021) provision of interconnection of networks or network facilities;
11. (new, SG No. 105/2011, effective 29.12.2011, renumbered from Item 10, SG No. 20/2021) provision of access to related services such as identification, location and presence services.
- (2) Upon imposition of the requirements covered under Paragraph (1), the Commission may attach conditions covering fairness, reasonableness and timeliness.

**Article 175.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) (1) The Commission shall impose the obligation under Article 173 for achieving the objectives under Article 4, taking into account whether other forms of access, regulated or through commercial offers, to wholesale services on the same or on a related wholesale market would be sufficient to overcome the identified problem in the analysis under Article 151 in the interest of end-users, following the principle of proportionality and taking into account:

1. the technical and economic viability of using or installing facilities by competing undertakings providing public electronic communications networks and/or services, in the light of market development and the nature and type of interconnection and access involved, including the applicability of other related wholesale access products, such as channel network access;
  2. the expected technological progress in connection with network design and management;
  3. the need to ensure technology neutrality, which enables the parties to design and manage their own networks;
  4. the opportunity of providing access with regards to the capacity available;
  5. the initial investments made by the owner of the facilities, taking into account all public investments made and investments in very high capacity networks, as well as the risks associated therewith;
  6. the need to protect competition in the long term, in particular the cost-efficient and infrastructure-based competition and innovative business models, including co-investments in networks;
  7. intellectual property rights, where relevant;
  8. the provision of pan-European services;
- (2) When the Commission imposes obligations under Articles 169a or 173, it shall assess whether only the imposition of obligations under Article 169a would be a proportionate means of promoting competition in the interests of end-users.

**Article 175a.** (New, SG No. 105/2011, effective 29.12.2011) (1) When imposing the obligation referred to in Article 173 herein, the Commission may lay down technical or operational conditions to be met by the undertaking providing the access and or by the undertaking benefiting from the said access, where necessary to ensure normal operation of the network.

(2) In case the conditions referred to in Paragraph (1) include following technical standards and/or standardization deliverables, the obligations shall be in compliance with the requirements of Section II of Chapter Sixteen herein.

**Article 176.** (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 177.** (Amended and supplemented, SG No. 17/2009, repealed, SG No. 105/2011, effective 29.12.2011).

## **Section IV**

### **Protected Services and Conditional Access**

**Article 178.** (1) Protected services shall be the following services, provided on the basis of conditional access and against remuneration:

1. (amended, SG No. 20/2021) the services of radio operators;
2. (amended, SG No. 20/2021) the services of radio broadcasters;
3. Information Society services;
4. provision of conditional access to the services referred to in Items 1, 2 and 3.

(2) Access to a protected service covered under Paragraph (1) shall be allowed by means of a conditional access device provided by the protected service provider.

(3) (New, SG No. 17/2009) It shall be an infringement to carry out an activity including the manufacture, import, distribution, sale, rental, possession, installation, maintenance, replacement or promotion for commercial purposes of illicit devices giving access to a protected service.

**Article 179.** (1) The systems for conditional access to digital radio and television programme services, irrespective of the means of conveyance, shall ensure the undertakings providing electronic communications networks a technical capability for cost-effective access to the control of protected services provided on the basis of conditional access.

(2) (Amended, SG No. 20/2021) The undertakings under Paragraph (1), controlling conditional access systems, shall provide to the radio and television broadcasters and the protected service providers a technical capability enabling their digital services to be received only by listeners or viewers authorized by means of decoders.

(3) The decoders shall be administered by the undertakings providing conditional access services.

(4) (Amended, SG No. 20/2021) The technical capability referred to in Paragraph (2) shall be provided to the radio and television broadcasters and the protected service providers on a fair, reasonable and equal treatment basis.

(5) The undertakings providing conditional access shall keep separate accounts regarding the activity referred to in Paragraph (2).

**Article 180.** (1) The intellectual property rights to production of conditional access products and systems shall be granted on fair, reasonable and non-discriminatory terms.

(2) The granting of the rights referred to in Paragraph (1) shall not be subject to conditions prohibiting, deterring or discouraging the inclusion in the same product of:

1. a common interface allowing connection with several other access systems, or
2. means specific to another access system, provided that the licensee complies with the relevant and reasonable conditions ensuring the security of information exchange with conditional access system operators.

**Article 181.** The Commission may impose on the undertakings under this Section obligations to provide access to electronic programme guides and access to application program interfaces.

## **Section V** **(New, SG No. 20/2021)**

### **Geographical Surveys of Network Deployment**

**Article 181a.** (New, SG No. 20/2021) (1) The Commission shall conduct a geographical survey on the coverage of electronic communications networks that can provide broadband access. The survey shall be updated at least every three years.

(2) For the purposes of the survey under Paragraph (1) the Commission may use the information available in the Single Information Point under Article 4 (1) of the Electronic Communications Networks and Physical Infrastructure Act, as well as other relevant information.

(3) The geographical survey under Paragraph (1) shall include a survey of the current geographical coverage of broadband networks on the territory of the country for implementation of the powers of the Commission. The geographical survey shall also serve for the surveys needed to implement the state aid rules.

(4) The geographical survey may also include a forecast for the coverage of broadband networks, including networks with very high capacity on the territory of the country for a period determined jointly by the Commission and the Ministry of Transport, Information Technology and Communications.

(5) The forecast under Paragraph (4) shall include all the required information, including on the deployment of very high capacity networks planned by undertakings or public authorities and, on the significant improvements or extensions of networks to reach a download speed of at least 100 Mbps. The Commission may require from undertakings and public authorities to provide this information in so far as such information is available and can be provided without imposing an excessive administrative or financial burden.

(6) The Commission and the Ministry of Transport, Information Technologies and Communications shall determine the degree of use of the information collected for the preparation of the forecast or part thereof in accordance with the powers assigned to them under this Act.

(7) The information collected during the geographical survey should have the required degree of detail of the data, include sufficient information on quality of the service and its parameters and be processed in compliance with the requirements of Article 40 (9).

**Article 181b.** (New, SG No. 20/2021) The Ministry of Transport, Information Technology and Communications may designate regions with clear territorial boundaries, for which, on the basis of the collected information and the forecast under Article 181a (4) it has been established that for the period of the respective forecast no undertaking or state or municipal body has deployed and plans to deploy a network with very high capacity or to significantly improve or expand its network to reach a download speed of at least 100 Mbps. The information under sentence one shall be public and shall be maintained on the information portal of the Single Information Point under Article 5 (1) of the Electronic Communications Networks and Physical Infrastructure Act.

**Article 181c.** (New, SG No. 20/2021) (1) For the regions set out under Article 181b the Commission or the Ministry of Transport, Information Technology and Communications may invite undertakings and state and municipal authorities to announce their intention to deploy very high capacity networks during the period of the relevant forecast.

(2) When, in response to the invitation, an intention to deploy such a network has been announced by an undertaking or a state or municipal authority, the body under Paragraph (1) who has made the invitation, may require other undertakings and state and municipal authorities to announce whether they intend to deploy networks with very high capacity or, to significantly improve or expand the existing networks in order to reach a download speed of at least 100 Mbps in the relevant area.

(3) The bodies under Paragraph (1) shall determine the data, which shall be contained in the applications for intention in order to provide a similar degree of detail like that in the forecast under Article 181a (4).

(4) Based on the information collected pursuant to Article 181a, the body under Paragraph (1) who has sent the invitation shall notify the undertakings and the state and municipal authorities, which have expressed interest, whether networks are deployed or deployment or modernization of networks is forthcoming, including those providing download speed below 100 Mbps.

**Article 181d.** (New, SG No. 20/2021) The actions under Article 181c shall be undertaken in compliance with the principles of efficiency, objectivity, transparency and equality, and no undertaking shall be excluded in advance.

**Article 181e.** (New, SG No. 20/2021) (1) The Ministry of Transport, Information Technology and Communications, the Commission and the other competent authorities responsible for allocating public funds for the deployment of electronic communications networks, for the development of the national broadband plan, for determining the coverage obligations to which the rights to use the radio frequency spectrum are linked, and to check the availability of services within the framework of universal service obligations, shall take into account the results of the geographical survey and all designated areas under this Section.

(2) When providing the results of the geographical survey to the bodies under Paragraph (1), the Body of European Regulators for Electronic Communications or the European Commission, the Ministry of Transport, Information Technology and Communications and the Commission shall require the recipients to observe the trade secret defined pursuant to Article 40 (9) and, shall inform the parties which provided the information.

**Article 181f.** (New, SG No. 20/2021) The Ministry of Transport, Information Technology and Communications shall provide access to the data from the geographical surveys that do not contain trade secrets, in accordance with Chapter Four of the Access to Public Information Act. The Ministry of Transport, Information Technology and Communications, through the Single Information Point under Article 4 (1) of the Electronic Communications Networks and Physical Infrastructure Act, shall provide an opportunity for end-users to determine the availability and connectivity in a

certain area with the necessary level of detail in order to be able to choose an operator or service provider.

**Article 181g.** (New, SG No. 20/2021) In collecting the data and conducting the geographical surveys and forecasts the Commission and the Ministry of Transport, Information Technology and Communications shall follow the guidelines of the Body of European Regulators for Electronic Communications regarding the coordinated fulfilment of their obligations under this Section.

## **Chapter Eleven**

### **UNIVERSAL SERVICE**

#### **Section I**

#### **Characteristics and Scope of Universal Service**

**Article 182.** (1) (Amended, SG No. 20/2021) Universal service shall be a set of services of specified quality, which are available to all end-users regardless of their geographical location on the territory of the country, at an affordable price.

(2) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Universal service shall include:

1. provision of voice telecommunication services by connecting at a fixed location to a public electronic communications network regardless of the technology used;
2. ensuring adequate broadband internet access at a fixed location through which at least the following services can be supported:

- a) Email;
  - b) search engines to search and find all kinds of information;
  - c) basic online tools for training and education;
  - d) online newspapers or news;
  - e) buying or ordering goods or services online;
  - f) job search and job search tools;
  - g) professional networking communities;
  - h) online banking;
  - i) use of electronic administrative services;
  - j) social media and real-time communication via text messages;
  - k) voice and video calls;
3. provision of services, other than those specified under Items 1 and 2, for which there are current obligations for the provision of universal service.

(3) (New, SG No. 20/2021) At the request of a user the connection under Paragraph (2) may be limited to the maintenance of voice communications services.

(4) (New, SG No. 20/2021) The Commission, taking into account the national conditions and the minimum bandwidth used by most users in the territory of the Republic of Bulgaria and, taking into account the report of the Body of European Regulators for Electronic Communications on best practices, shall determine the appropriate broadband internet access service for the purposes of Item 2 of Paragraph (2) herein, in order to ensure the bandwidth required for participation of the citizens in the social and economic life.

(5) (Amended, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (3), amended, SG No. 20/2021, SG No. 15/2022, effective 22.02.2022) The terms and conditions for provision of the services under Paragraph (2) shall be set out in an ordinance of the Minister of Transport and Communications and the Minister of e-Government on a proposal from the Commission, which shall be promulgated in the State Gazette.

#### **Section II**

#### **Universal Service Provision**

**Article 183.** (Amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).



**Article 183a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 184.** (Amended, SG No. 17/2009, amended and supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 185.** (Amended, SG No. 17/2009, amended and supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 186.** (Amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 187.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The Commission may require from the undertakings providing voice telecommunication services by connecting at a fixed location and Internet access services at a fixed location, to take special measures for persons with disabilities, ensuring the availability and accessibility of connected terminal equipment, specific equipment and specific services to improve equal access, including, where necessary, total conversation services or transmission services.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings under Paragraph (1) shall provide contracts and itemized bills to end-users with disabilities, in the appropriate format for such users.

(3) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The undertakings under Paragraph (1) shall provide the opportunity for the end-users with disabilities to monitor and control their expenditure by themselves by means similar to the means enjoyed by other end-users.

(4) (Renumbered from Paragraph (3), supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

(5) (Renumbered from Paragraph (4), SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The terms, procedure and means for provision of universal service to persons with disabilities shall be established by the ordinance referred to in Article 182 (5) herein.

(6) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission may, in justified cases, determine additional applicable quality of service standards and assessment parameters for the performance of undertakings in the provision of services to end-users with disabilities.

**Article 188.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No.95/2016, SG No. 20/2021) (1) The Commission may impose on one or more undertakings providing voice telecommunication services by connecting in a fixed location and Internet access services in a fixed location, obligations to provide all or some of the services under Article 182 (2) on the whole territory of the country or part thereof in order to provide the universal service on the territory of the whole country and in order to satisfy all reasoned requests from users for access to such services.

(2) The Commission shall impose the obligations under Paragraph (1) where, taking into account the results of the geographical research under Article 181a, if any, and any additional evidence, it finds that the availability at a particular location of an appropriate broadband internet access service and voice communication services cannot be provided under normal commercial conditions throughout the country or in different parts thereof.

**Article 189.** The Commission shall prepare a consolidated annual report on the degree of supply of universal service to the public and shall post the said report on the Internet site thereof. The said report shall be an integral part of the report of the Commission referred to in Article 38 herein.

### **Section III**

#### **Imposing Obligations for Universal Service Provision**

**(Heading amended, SG No. 20/2021)**

**Article 190.** (Supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 191.** (1) (Amended, SG No. 20/2021) The Commission shall assign the provision of universal service, including after conducting a contest procedure, duly respecting the rules under Chapter Five herein, respecting the principles of objectivity, transparency, equal treatment and in the

interest of end-users, without excluding a priori any undertaking from the opportunity of being assigned the provision of universal service or a part thereof.

(2) (Amended, SG No. 20/2021) In imposing the obligations under Paragraph (1) the Commission shall consider the most appropriate and efficient way of providing the universal service, which may serve to determine the net cost of the universal service obligation.

**Article 191a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) When an undertaking with imposed obligations under Article 188 intends to transfer a significant part or all of its assets, related to the subscriber access network, to a legal entity of different ownership, such undertaking must inform the Commission in advance and in a timely manner to enable it to assess the effect of the planned transaction on the provision in a fixed location of the appropriate broadband internet access service and voice telecommunication services.

**Article 192.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The Commission shall assess the need to impose obligations, including a review of those already imposed, every three years or in the event of a change in market conditions.

**Article 193.** (Amended, SG No. 20/2021) The procedure for imposing obligations in connection with the universal service provision shall be determined in the ordinance under Article 182 (5).

**Article 194.** (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission shall notify the European Commission of the obligations imposed and of any subsequent amendment thereto.

## **Section IV**

### **Affordability of Universal Service**

**Article 194a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission shall monitor the development and the level of prices and retail price packages for the services under Article 182 (2), in particular in relation to consumer prices and incomes in the country.

**Article 195.** (1) The manner of determining the universal service prices and price packages shall be specified in a methodology elaborated by the Commission and adopted by the Council of Ministers.

(2) The draft of the methodology referred to in Paragraph (1) shall be published for public consultation under Article 36 herein.

**Article 196.** (1) The undertakings providing public electronic communications networks and/or services shall determine the universal service prices and price packages on the basis of the methodology referred to in Article 195 herein.

(2) The undertakings referred to in Paragraph (1) shall submit for approval by the Commission the prices and price packages referred to in Paragraph (1) together with the pricing documents, at least sixty days prior to the entry into effect of the said prices and packages.

(3) The Commission shall consider the prices and price packages referred to in Paragraph (1) within thirty days after the submission of the said prices and packages and may obligate the undertakings referred to in Paragraph (1) to adjust the prices and price packages in accordance with the requirements of this Act and the methodology referred to in Article 195 herein.

(4) (Supplemented, SG No. 105/2011, effective 29.12.2011) The undertakings referred to in Paragraph (1) shall publish the universal service prices and price packages as approved by the Commission at least fourteen days prior to the entry into effect of the said prices and packages by posting the said information on the Internet site thereof, displaying it in a conspicuous place at the distributive trade establishments thereof or in another appropriate manner.

**Article 197.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) (1) The Commission may impose on the undertakings providing voice telecommunication services by connecting in a fixed location and Internet access services in a fixed location, to offer consumers, in particular persons with special social needs or low income, tariff plans or price packages different from those offered under the normal commercial conditions where, pursuant to Article 194a the

Commission establishes that the retail prices for the services under Article 182 (2) are not available for users with low income or with special social needs.

(2) For the special tariff plans and price packages under Paragraph (1) the Commission may oblige the undertakings under Paragraph (1) to apply to apply common tariffs, including geographically averaged retail prices for the entire territory of the country, or to observe price restrictions, determined pursuant to the methodology under Article 195.

(3) Exceptionally, when the imposition of the obligations under Paragraphs 1 and 2 on all undertakings would lead to excessive administrative or financial burden for the state or the undertakings, the Commission may impose these obligations only on certain undertakings. In such case the undertakings shall be determined in accordance with Section III.

(4) An undertaking providing voice communication services by connection in a fixed location and Internet access services in a fixed location or one determined in accordance with the requirements of Paragraph (3) shall grant the right to the users to conclude a contract for use of the tariff plans or the price packages under Paragraph (1), shall ensure retention of the subscriber number for an appropriate period and, avoid unwanted interruptions of the service.

(5) The undertakings with obligations imposed under Paragraphs 1, 2 and 3 shall observe the principles of transparency and equality in the provision of their services.

(6) The Commission may amend or withdraw the obligations referred to in Paragraphs (1), (2) and (3).

**Article 198.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings providing voice communications services by connection in a fixed location and Internet access services in a fixed location, and have obligations imposed under Article 197, shall offer the relevant equipment and services, where applicable, in a way enabling consumers to monitor and control their costs by:

1. (amended, SG No. 20/2021) provision of free-of-charge itemized bills, so that;

a) to ensure possibilities for verification and control of charges for the use of Internet access services or voice communication services, and

b) for the users to monitor their consumption charges and costs and to exercise control on their accounts;

2. (amended, SG No. 20/2021) free selective restriction of outgoing calls, value-added short text and multimedia messages or, where technically possible, of other similar applications, whereby enabling the user, by submitting an application to the voice call provider, to suspend free of charge certain types of outgoing calls or special short text messages and value-added multimedia messages other types of similar applications from or to certain types of numbers;

3. (amended and supplemented, SG No. 20/2021) providing opportunities for prepaid access to public electronic communications networks and the use of voice communication or internet access services;

4. (amended, SG No. 20/2021) admission of deferred payment of fees for connection to the public electronic communications network;

5. (amended, SG No. 20/2021) notice of possible subsequent suspension of the service or disconnection in case of non-payment of bills; any suspension shall be limited only to the relevant service, where technically possible, except in cases of fraud, systemic late payment or non-payment of bills; within one month prior to disconnection only calls that are not charged to the user shall be allowed and a minimum level of Internet access services, including access to number 112 via the Internet;

6. provision of information regarding alternative lower-cost tariffs, if available;

7. (amended, SG No. 20/2021) providing other means of controlling the cost of voice communications or Internet access services, including free alerts in the event of atypical traffic or over-consumption;

8. (new, SG No. 20/2021) possibility to deactivate third party invoicing - enabling end users to deactivate the option for third party service providers to use an invoice of the undertaking for an internet access service to invoice their products or services.

(2) (New, SG No. 20/2021) The undertakings under Paragraph (1) shall implement a system for avoiding unwanted interruptions of the voice communication services or the service for appropriate broadband Internet access for the users, including an appropriate mechanism to check the interest in retaining the access to the service.

(3) (Renumbered from Paragraph (2), amended, SG No. 20/2021) The manner of using the opportunities under Paragraph (1) shall be set out in the General Conditions for Relationships between the Undertaking and End-Users.

(4) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (3), amended, SG No. 20/2021) The Commission may not impose the obligations under Paragraph (1) or withdraw the said obligations, where such obligations have already been imposed in all the national territory or part thereof if the Commission ascertains that the respective opportunities are widely provided.

**Article 199.** (Amended, SG No. 20/2021) No charges shall be due by end-users for any services and facilities offered by the undertakings providing services under Article 182 (2), which are not necessary for or inherent to the service provision.

## **Section V**

### **Recovery of Net Costs of Universal Service Provision**

**Article 200.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings with imposed obligations to provide universal service may request to be compensated for the proven net costs where the universal service provision represents an unfair burden on the said undertakings.

(2) (Amended, SG No. 17/2009, SG No. 27/2010, effective 9.04.2010, SG No. 105/2011, effective 29.12.2011) The existence of an unfair burden shall be determined on the basis of the net costs and taking into consideration the intangible advantages for the undertaking referred to in Paragraph (1) associated with provision of universal service or of part thereof, provided that the service can only be provided at a loss or at prices below the reasonable margin of profit.

**Article 201.** (1) The Commission shall prepare and adopt rules for calculation of the net costs of universal service provision.

(2) (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings with imposed obligations to provide universal service shall calculate the net costs of the universal service provision pursuant to the rules under Paragraph (1).

(3) (Repealed, SG No. 105/2011, effective 29.12.2011).

(4) (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 202.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The resources for recovery of the net costs of universal service provision shall be raised in a Universal Service Recovery Fund, hereinafter referred to as "the Fund". Funds for compensation of net costs of universal service provision shall be raised from undertakings providing public electronic communication networks and services.

(2) The Fund shall be a legal person with a registered office in Sofia.

(3) The National Audit Office shall exercise control over the activity of the Fund.

(4) The Fund shall be exempt from payment of central-government and local taxes and fees only for the operations related to recovery of the net costs of universal service. The resources of the Fund shall be held at the Bulgarian National Bank.

(5) The transformation, dissolution and liquidation of the Fund shall be regulated by a law.

**Article 203.** (1) The Fund shall be managed by a Managing Board which shall consist of seven members, including a Chairperson and a Deputy Chairperson, who shall be designated as follows:

1. the Chairperson: by the Communications Regulation Commission;

2. the Deputy Chairperson: by the Minister of Transport, Information Technology and Communications;

3. one member: by the Governor of the Bulgarian National Bank;

4. one member: by the Minister of Labour and Social Policy;
5. one member: by the Minister of Finance;
6. one member: by the Commission on Protection of Competition;
7. one member: by the Commission for Consumer Protection.

(2) (Amended, SG No. 20/2021) Where an application has been filed under Article 207 (1) by May 31 of the following year, the Managing Board of the Fund shall prepare a report to the Minister of Transport, Information Technology and Communications, the Minister of Finance, the Minister of Labour and Social Policy, the Governor of the Bulgarian National Bank, the Communications Regulation Commission, the Commission for Consumer Protection and the Commission on Protection of Competition, which shall include:

1. the amount of the net costs incurred by universal service provision;
2. evaluation of the non-material advantages of undertakings associated with universal service provision;
3. the amount of the contributions of the undertakings to the Fund;
4. the amount of the resources spent.

(3) The report referred to in Paragraph (2) shall be posted on the Internet site of the Communications Regulation Commission.

**Article 204.** (1) The decisions of the Managing Board shall be adopted by a simple majority. The said decisions shall be accessible to the general public.

(2) The Managing Board shall elaborate and adopt Rules of Operation of the Fund.

(3) The administrative support to the Fund shall be ensured by the administration of the Commission.

**Article 205.** The resources of the Fund shall be spent only on recovery of net costs incurred by universal service provision according to the procedure established by this Section.

**Article 205a.** (New, SG No. 105/2011, effective 29.12.2011) Recovery of the net costs shall be undertaken in an objective, transparent, proportionate and non-discriminatory manner, without distorting competition and user demand.

**Article 206.** (1) (Supplemented, SG No. 27/2010, effective 9.04.2010, amended, SG No. 20/2021) The undertakings providing public voice communication networks and services shall pay contributions to the Fund under the terms and according to the procedure established by this Section. Undertakings with gross annual revenues not exceeding BGN 100,000 shall be exempt from the payment.

(2) (Amended and supplemented, SG No. 20/2021) The amount of the contributions under Paragraph (1) for the relevant year may not exceed 0.8 per cent of the gross annual income from the provision of public electronic communications networks and services, exclusive of value added tax, after deduction of transfer payments to other undertakings for interconnection of networks and for access, transit, roaming, value added services, as well as costs of settlement of copyrights and neighbouring rights to radio and television programme services.

(3) The undertakings referred to in Paragraph (1) shall pay the contributions within one year after the entry into effect of the decision referred to in Article 208 (2) herein. A failure to pay the contributions when due shall constitute a material violation of this Act. Upon delay of payment, legal interest shall be charged on the contributions.

(4) The contributions of the undertakings under Paragraph (1) shall be accounted for as imputed costs.

(5) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Undertakings which do not provide public electronic communications networks and services within the national territory shall not owe contributions under Paragraph (1).

**Article 207.** (1) Applications for recovery of net costs of universal service provision for the last preceding calendar year, accompanied by the required evidence, shall be submitted by the undertakings referred to in Article 206 herein to the Commission not later than the 30th day of June of the current year.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The Commission shall verify the calculations submitted and the other information used as a basis for calculating the net cost

of the universal service obligations in respect of the compensation claimed. The Commission may request additional information and/or other information used as a basis for calculating the net cost of the universal service obligations of the undertakings.

(3) (Amended, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) The Commission may order an audit of the accounts and/or other information serving as the basis for the calculation of the net costs of the universal service obligations. In case the Commission has the required qualified staff, it may perform independently such inspection.

(4) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The audit under Paragraph (3) shall be at the expense of the undertaking audited, and the costs incurred shall be included in the calculation of the net costs.

(5) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The results of the cost calculation and the conclusions of the audit shall be publicly available.

(6) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Within 45 days after completion of the audit the Commission shall deliver an opinion on:

1. the existence of an unfair burden for the respective undertaking referred to in Article 206 herein associated with universal service provision;

2. the amount of recovery requested by the respective applicant.

(7) (New, SG No. 105/2011, effective 29.12.2011) The Commission may order the conduct of additional surveys and expert examinations for preparation of an opinion under Paragraph (6).

**Article 207a.** (New, SG No. 105/2011, effective 29.12.2011) In case the opinion referred to in Article 207 (6) herein confirms the existence of an unfair burden, the Commission shall require from the undertakings referred to in Article 206 (1) herein data on the gross revenue thereof.

**Article 207b.** (New, SG No. 105/2011, effective 29.12.2011) The Commission shall present to the Managing Board the opinion referred to in Article 207 (6) herein and the accompanying materials, as well as data on the gross revenue of the undertakings referred to in Article 206 (1) herein.

**Article 208.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) Within seven days after receipt of the opinion referred to in Article 207b herein, the Managing Board shall pronounce by decision on the total amount of the compensation due to all applicants for the last preceding year, as well as regarding the specific amount payable to each one of the said applicants.

(2) (Amended, SG No. 17/2009) By the decision referred to in Paragraph (1), the Managing Board shall determine the percentage of the gross revenue and the amount of the contribution to the Fund for each undertaking referred to in Article 206 (1) herein.

(3) Within thirteen months after the entry into effect of the decision referred to in Paragraph (2), the Fund shall pay the compensations due to the applicants. The financial result of the undertakings referred to in Article 206 herein, providing universal service, shall be debited with the amount of the compensation when the said financial result is adjusted for tax purposes.

(4) The compensations referred to Paragraph (3) shall be paid in equal quarterly instalments.

(5) In case the total amount of the compensation due to all applicants exceeds the amount of the resources in the Fund, allocated for recovery of net costs for the preceding year, the compensations shall be paid in proportion to the ratio between the total amount of the compensation due to all applicants and the total amount of the resources in the Fund for the relevant year. The unpaid balance of the compensation shall be due in the succeeding year.

## **Chapter Twelve**

**(Repealed, SG No. 105/2011, effective 29.12.2011)**

### **LEASED LINES**

**Article 209.** (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 210.** (Amended, SG No. 17/2009, repealed, SG No. 105/2011, effective 29.12.2011).

**Article 211.** (Amended, SG No. 17/2009, repealed, SG No. 105/2011, effective 29.12.2011).

**Article 212.** (Amended, SG No. 17/2009, repealed, SG No. 105/2011, effective 29.12.2011).

**Article 213.** (Repealed, SG No. 17/2009).

**Article 214.** (Repealed, SG No. 17/2009).

**Article 215.** (Repealed, SG No. 17/2009).

### **Chapter Thirteen**

#### **PRICES**

**Article 216.** (1) (Amended, SG No. 20/2021) The undertakings providing public electronic communications networks and/or services shall determine prices according to demand and supply, ensuring equal treatment of users, categories of end-users, traffic volume and other conditions related to freedom of contract.

(2) The undertakings providing public electronic communications networks and/or services may offer price packages for services, ensuring a right of the user to use services not tied in a price package, outside the price package.

(3) The undertakings providing public electronic communications networks and/or services may offer discounts for the services used under publicly known conditions, where used by anyone who meets the pre-announced conditions for the provision of the said services.

(4) The undertakings providing public electronic communications networks and/or services shall submit the retail prices for information to the Commission within three days prior to the entry into effect of the said prices.

(5) The undertakings providing public electronic communications networks and/or services shall make public the prices by posting on the Internet sites thereof or by publication in a place accessible to users.

**Article 217.** (Amended, SG No. 105/2011, effective 29.12.2011) (1) The Commission may regulate prices of electronic communications services where an obligation for price controls and/or cost orientation has been imposed for an undertaking with significant market power on a relevant market by a decision adopted according to the procedure established by this Act.

(2) In case this Act provides that the undertakings providing electronic communications networks and/or services shall determine prices respecting the principle of cost orientation or covering the costs and if the said undertakings do not determine the prices between them, the said prices shall be determined by the Commission. The undertakings shall submit to the Commission the proposals with the prices determined thereby together with the relevant pricing documents. In case the prices submitted by the undertakings do not comply with the requirements of this Act, the Commission shall return the prices for adjustment within one month. In case the undertakings fail to adjust the prices or fail to prove the compliance of the said prices with the requirements of this Act within the time limit referred to in the foregoing sentence, the Commission shall impose price controls according to one of the following methods:

1. limiting the growth of the prices to a predetermined price threshold;
2. comparative analysis between the prices determined by the undertakings and the prices for a similar service applied in the Member States of the European Union.

**Article 218.** The undertakings providing public electronic communications networks and/or services, whereon a specific obligations relating to cost orientation and a cost accounting system has been imposed, shall submit to the Commission detailed information on the costs of the relevant services annually, within four months after closing of the financial year.

**Article 219.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) The undertakings referred to in Article 217 (1) herein shall submit the prices of the regulated electronic communications services to the Commission one month prior to the publication of the said prices together with the relevant pricing documents.

(2) (New, SG No. 105/2011, effective 29.12.2011) The undertakings referred to in Article 217 (1) herein shall submit the prices of temporary promotional packages including regulated electronic

communications services to the Commission two weeks prior to the publication of the said prices together with the relevant pricing documents.

(3) (Renumbered from Paragraph (2), amended, SG No. 105/2011, effective 29.12.2011) In case the prices do not correspond to the specific obligations as imposed, the Commission shall return the said prices to the undertakings referred to in Paragraph (1) for adjustment within one month.

(4) (Renumbered from Paragraph (3), SG No. 105/2011, effective 29.12.2011) Once in six months, the Commission may require the undertakings referred to in Article 218 herein to prove the cost orientation of prices, allowing the relevant undertaking one month to comply.

(5) (Renumbered from Paragraph (4), supplemented, SG No. 105/2011, effective 29.12.2011) In case the undertakings referred to in Paragraph (1) fail to adjust the prices or, respectively, to prove the cost orientation of the said prices, within the one-month time limit referred to in Paragraph (3) or (4), the Commission may impose price controls conforming to the specific obligations as imposed or to the provisions of this Act for a period not exceeding six months.

(6) (Repealed, renumbered from Paragraph (5), amended, SG No. 105/2011, effective 29.12.2011) The undertakings referred to in Article 217 (1) herein shall determine prices of services which shall comply with the following conditions:

1. the said prices must not contain any pricing elements based solely on the significant market power of the undertaking on the relevant market;
2. the said prices must not contain any discounts which impede the possibilities for competition on the part of other undertakings providing the relevant electronic communications service;
3. the said prices must not create any advantages for particular users of the same or similar electronic communications service;
4. the said prices must not be below the level of the costs of provision of the said services;
5. (new, SG No. 105/2011, effective 29.12.2011) the said prices must not apply a price squeeze.

**Article 220.** (1) The Commission may impose price controls and requirements for cost orientation in respect of the prices for access and interconnection on undertakings with significant market power on the relevant market.

(2) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011) Upon imposition of price controls under Paragraph (1), the Commission may employ methods such as:

1. limiting the growth of the prices of services to a predetermined price threshold;
2. (amended, SG No. 20/2021) comparative analysis between the prices determined by the undertaking and the prices of the same services in comparable competitive markets of other Member States of the European Union;
3. determining a plan for gradual reduction of prices for a definite period of time, whereafter the level of prices must reach a predetermined level;
4. (new, SG No. 105/2011, effective 29.12.2011) determining wholesale prices on the basis of the prices of services provided on a vertically related wholesale market less the costs relevant to the performance of the services on the retail market.

(3) Cost oriented prices shall be determined by the undertakings in accordance with a cost accounting system where this is provided for according to the procedure established by this Act and is imposed by decision of the Commission.

**Article 220a.** (New, SG No. 20/2021) (1) The Commission shall monitor the application of voice call termination rates by voice call termination providers.

(2) The Commission may at any time require a voice call termination service provider to change the price it imposes on other undertakings if the said price does not comply with the requirements of the applicable European Commission delegated regulation setting a single maximum mobile voice termination rate and a single maximum fixed voice termination rate

(3) The Commission shall inform annually the European Commission and the Body of European Regulators for Electronic Communications regarding the application of Paragraphs 1 and 2.

(4) The Commission may perform an analysis of the voice call termination markets in accordance with Article 151 in order to assess whether the imposition of regulatory obligations is necessary



where the European Commission decides not to impose a maximum voice call termination rate on mobile networks or a maximum voice call termination rate on fixed networks or, none of the two.

(5) In case that, as a result of the analysis under Paragraph (4) and in accordance with the procedures set out in Articles 36, 42 and 42b the Commission imposes obligations for cost-oriented prices for termination on the respective market, the Commission shall observe the following principles, criteria and parameters:

1. the prices are based on the reimbursement of costs incurred by an efficient operator; the estimation of efficient costs is based on the current cost values; the cost-efficient calculation methodology is based on a bottom-up modelling approach using long-term additional traffic-related costs for the wholesale voice call termination service provided to third parties;
2. the relevant additional costs of the wholesale voice termination service represent the difference between the total long-term costs of an operator providing its full range of services and the total long-term costs of such operator where it does not provide to third parties a wholesale voice termination service;
3. only those traffic-related costs that would have been avoided in the absence of the wholesale voice call termination service should be allocated to the relevant termination addition;
4. the costs of additional network capacity are included only if they are incurred in view of the need to increase the capacity for the purpose of transmitting additional traffic related to wholesale voice call termination;
5. the charges for the use of radio frequency spectrum are not included in the addition for mobile voice call termination;
6. only wholesale costs directly related to the wholesale voice call termination service provided to third parties are included;
7. it is considered that all fixed network operators provide voice call termination services at the same unit labour costs as the efficient operator, regardless of their size;
8. the minimum efficient scale for mobile network operators is defined at least at 20 per cent market share;
9. the approach to be used in calculating the depreciation of assets is the economic depreciation, and
10. the choice of technology for modelled networks should be geared to the future development of Internet Protocol-based networks, taking into account the different technologies that are likely to be used during the period of maximum price validity; regarding fixed networks, calls are assumed to be exclusively packet-switched.

**Article 221.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) The Commission may regulate retail prices of electronic communications services offered by undertakings with significant market power on a relevant retail market under the terms and according to the procedure established by this Act, where the Commission determines that the imposition of specific obligations under Chapter Ten herein will not prejudice the attainment of the purposes covered under Article 4 herein.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

(3) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) For the purpose of protecting end-users and promoting effective competition, the Commission may impose one or any of the following obligations on the undertakings referred to in Paragraph (1):

1. limiting the growth of the retail prices to a predetermined price threshold;
2. (amended, SG No. 105/2011, effective 29.12.2011) control of individual tariffs;
3. determination of cost oriented retail prices;
4. determination of prices oriented to prices for the same or similar services in comparable relevant markets of the Member States of the European Union.

(4) (Amended, SG No. 105/2011, effective 29.12.2011) The obligations imposed under Paragraph (3) shall be proportionate, justified and be based on the nature of the problem identified, and may include requirements to the undertakings referred to in Paragraph (1):

1. (amended, SG No. 105/2011, effective 29.12.2011) not to charge excessive prices; or
2. (amended, SG No. 105/2011, effective 29.12.2011) not to charge prices that hinder competition or the entry of other undertakings in the relevant market; or

3. (amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) not to show undue preference to specific end-users; or
4. (amended, SG No. 105/2011, effective 29.12.2011) not to unreasonably bundle services.
- (5) (Repealed, SG No. 105/2011, effective 29.12.2011).
- (6) (Repealed, SG No. 105/2011, effective 29.12.2011).
- (7) (New, SG No. 20/2021) In fulfilling the obligations imposed under Paragraph (3) the undertakings with significant market power on the respective market shall apply the required cost accounting systems. The Commission may determine the format and accounting methodology to be used. Compliance with the requirements of the cost accounting system shall be audited by a registered auditor pursuant to the Independent Financial Audit Act or by the Commission, if the latter has the required qualified staff. The results of the inspection shall be published annually.
- (8) (New, SG No. 20/2021) Without prejudice to the provisions of Section IV of Chapter Eleven, the Commission shall not apply the mechanisms for control over a retail market pursuant to Paragraph (1) to geographic markets or retail markets, if it has established that there is efficient competition on them.

**Article 222.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) The Commission may require that the undertakings referred to in Article 217 (1) herein elaborate and apply a cost accounting system, where this is necessary for attainment of the purposes covered under Article 4 herein and respecting the principles covered under Article 5 herein.

(2) Within six months after imposition of the obligations referred to in Paragraph (1), the undertakings referred to in Paragraph (1) shall submit to the commission a draft of a cost accounting system. After consultation with the undertakings, the Commission may require the principles and the main categories under which costs are grouped, and the basic rules used for the allocation of costs.

(3) (Amended, SG No. 17/2009) After consultation with the undertakings referred to in Paragraph (1), the Commission may require that the draft of the cost accounting system be amended and supplemented without jeopardizing the financial viability of the undertaking referred to in Paragraph (1).

(4) (Amended, SG No. 17/2009) The Commission shall approve the cost accounting system within three months after the submission of the said system under Paragraph (2) and may issue binding instructions to the undertakings referred to in Paragraph (1) to amend the cost accounting system.

(5) (Amended, SG No. 17/2009) The undertakings referred to in Paragraph (1) shall ensure that the principles and the main categories under which costs are grouped, and the basic rules used for the allocation of costs, be accessible to the general public, and shall provide the information free of charge upon request.

(6) (Amended, SG No. 17/2009) The undertakings referred to in Paragraph (1) shall publish an annual report with an analysis of compliance with the obligation concerning cost orientation of the public electronic communications networks and/or services.

(7) (Amended, SG No. 17/2009) The undertakings referred to in Paragraph (1) and/or the Commission may reasonably initiate a change in the cost accounting system according to the procedure established by this Article.

(8) (Amended, SG No. 17/2009, SG No. 95/2016, SG No. 20/2021) The Commission shall assign, to a registered auditor pursuant to the Independent Financial Audit Act, an inspection of the application of the cost determination system. In case it has the required qualified staff, the Commission may perform independently the inspection of the application of the cost determination system. The results of the inspection shall be published annually.

(9) (Repealed, SG No. 17/2009).

(10) (Repealed, SG No. 17/2009).

**Article 223.** (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 224.** The prices of electronic communications services under Chapter Eleven herein shall be determined by the undertakings obligated to provide universal service in accordance with the methodology referred to in Article 195 (1) herein.

**Article 224a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Chapter Fourteen**  
**PROTECTION OF END-USER INTERESTS**  
**(Heading amended, SG No. 20/2021)**

**Section I**

**Requirements for Provision of Information in Contracts**  
**(New heading, SG No. 20/2021)**

**Article 225.** (Amended, SG No. 105/2011, effective 29.12.2011) (1) (Previous text of Article 225, amended, SG No. 20/2021) The undertakings providing electronic communications networks and/or services to end-users shall respect the principles of transparency and equal treatment conforming to the type of technology used, the categories of end-users, the traffic volume and the mode of payment, and shall not allow advantages to specific end-users or group of end-users for one and the same services.

(2) (New, SG No. 20/2021) The undertakings under Paragraph (1) may not apply different requirements or general conditions to end-users for access to or use of their networks or services for reasons related to the nationality, place of residence or place of establishment of an end-user, unless there are objective reasons for their different treatment.

(3) (New, SG No. 20/2021) The provision of end-user access to electronic communications networks or the use of services and applications through such networks shall comply with the Charter of Fundamental Rights of the European Union and European Union law.

**Article 226.** (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) Before a consumer is bound by a contract or a proposal to conclude a contract, the undertakings providing public electronic communications services, other than machine-to-machine communications services, shall provide the following information relevant to the requested service:

1. name, registered office and address of management, telephone number, as well as e-mail address and website, if any;
2. type, description and main characteristics of the services, including:
  - a) any barriers to accessing emergency call services or information on calling end-user location due to lack of technical feasibility, insofar as the service allows end-users to generate calls to a number in a national or international numbering plan;
  - b) minimum levels of service quality offered:
    - aa) for Internet access services: at least information on delay, delay fluctuation and packet loss;
    - bb) for interpersonal communication services, where they exercise control over certain elements of the network, directly or by virtue of a service level agreement with network access providers: connection time, probability of failure, signalling delay;
    - cc) information that no minimum levels of service quality are offered, where applicable;
    - dd) for the providers of Internet access services and, the information required under Article 4 (1) of Regulation (EU) 2015/2120;
  - c) deadlines for activating the electronic communications service;
3. terms and conditions for payment of the offered services; the existence of deposits or other financial guarantees paid or given by the end-user at the request of the undertaking and the conditions thereof;
4. detailed information on products and services intended for users with disabilities and the manners to obtain updates of such information;
5. procedures for reviewing and pronouncing on complaints, requests and proposals of end-users as well as means for initiating dispute resolution procedures, including national and cross-border disputes, in accordance with the Consumer Protection Act;
6. terms and conditions for negotiation, determination of the amount and payment of benefits and reimbursement of amounts applicable in case of non-fulfilment of agreed service quality levels, including, where applicable, explicit indication of consumer rights applicable in case of non-fulfilment of agreed levels for the quality of the service or, if the provider has failed to take appropriate measures in the event of an incident, threat or vulnerability related to network security;

7. the right of end users to decide whether to include their personal data in a directory and the types of data subject to inclusion pursuant to Article 258;
  8. the actions that the undertaking may take in reaction to a threat or in response to incidents related to network vulnerabilities or security;
  9. information on what personal data are provided before the provision of the service or collected during the provision of the service, without prejudice to the obligation under Article 13 of Regulation (EU) 2016/679;
  10. maintenance, by the user, of services for monitoring and control of the costs of the Internet access services and the interpersonal communication services, where such are agreed or such obligation is imposed under Article 237a, including a notice before reaching the maximum volume included in the user's tariff plan and, when the service included in the plan is fully utilized;
  11. duration of the contract and conditions for renewal and termination of services and of the contract, amounts due for termination, if any, including:
    - a) all the requirements for minimum usage or minimum duration required to benefit from promotional terms;
    - b) amounts due related to provider switching and compensation arrangements and reimbursement of sums in case of delay or abuse of provider switching, as well as information on the relevant procedures;
    - c) penalties and indemnities related to early termination of a contract, including reimbursement of costs incurred in respect of terminal equipment and information on unlocking and reimbursement of the costs for terminal equipment;
    - d) information on the right of prepaid service users to a refund upon request of the remaining credit in case of switching the provider;
    - e) the conditions, including the fees, imposed by the provider for the use of the provided terminal equipment, without prejudice to the right of end-users to use terminal equipment of their choice in accordance with Article 3 (1) of Regulation (EU) 2015/2120;
    - f) for package services: the conditions for extension and termination of the agreement, where applicable, the conditions for termination of the package or elements thereof;
  12. prices of the services provided and, as far as applicable, the corresponding prices for activating the electronic communications service, as well as for any recurring or consumption-related charges;
  13. for Internet access services and public interpersonal communication services:
    - a) detailed information on the specific tariff plan or plans pursuant to the contract: types of services offered, including, where applicable, information on their volume (megabytes, minutes, messages, etc.) for the specified billing period, as well as the price of additional units of communication services;
    - b) in case of selected tariff plan or plans with predetermined volume of services: the possibility for the users to transfer any unused volume from the previous invoicing period to the next invoicing period, when such an option is included in the contract;
    - c) mechanisms to ensure transparency of invoicing and monitoring the level of consumption;
    - d) tariff information for each number or service for which special price conditions apply;
    - e) for package services and packages that include both services and terminal equipment: the prices of the individual elements in the package, insofar as they are also offered on the market separately;
    - f) conditions, including fees, for service, maintenance and customer service;
    - g) the means to obtain up-to-date information on all applicable tariffs and maintenance charges.
- (2) The information under Paragraph (1) shall be provided by the undertaking in a clear and comprehensible manner on a durable medium within the meaning of the Consumer Protection Act or, where the provision of a durable medium is not possible, in a document provided by the undertaking, which is easy to download. The undertaking shall explicitly draw the user's attention to the existence of this document and to the fact that it is important that the document be downloaded for the purposes of documentation, future references and unaltered reproduction.
- (3) Upon request the undertaking shall provide the information under Paragraph (1) in an accessible format for end-users with disabilities in accordance with the current legislation and the law of the

European Union in the field of harmonization of the requirements for accessibility of products and services.

(4) The undertakings under Paragraph (1) shall provide the information under Paragraph (1) and Article 228a (1) also to end users, which are micro-enterprises, small enterprises or non-profit legal entities, unless they have explicitly waived such information, in whole or in part.

(5) With regard to certain categories of services, the Commission may additionally request that the information under Item 13(d) of Paragraph (1), to be provided immediately before connecting the call or before connecting the service provider.

**Article 226a.** (New, SG No. 20/2021) (1) Undertakings providing public electronic communications services, when carrying out automated processing, including profiling, for the purpose of preliminary risk assessment upon a request by an end-user to conclude a contract, shall have the right to use:

1. the data under Item 2(a) of Article 248 (2) provided by the end user for the purposes of concluding a contract;
2. information under Article 249 (3) where terminal equipment is also offered;
3. the data relating to other existing or terminated contracts with the same end-user, in so far as the undertaking has such data at the time of receipt of the request.

(2) In the cases under Paragraph (1) the undertakings providing public electronic communications services shall notify in advance the end-user that the preliminary risk assessment is carried out by automated processing, and shall inform the said end-user the rights thereof to request human intervention in the performance of such assessment, of his right and the manner in which he/she may express opinion and to challenge the decision taken as a result of the automated processing.

**Article 227.** (1) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The information under Article 226 (1) shall not be subject to change, unless the parties agree in writing thereon before concluding the contract. The information under Article 226 (1) shall be an integral part of the contracts concluded by the undertaking providing public electronic communications services, other than machine-to-machine communications services, and the users, with a view to certifying the identity between such information and the terms of the contract at the time of its conclusion.

(2) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

(3) The undertakings shall elaborate and publish a price list of the services, stating prices of the services offered, price packages or tariffs and conditions for the use thereof.

(4) (New, SG No. 105/2011, effective 29.12.2011) The conditions covered under Paragraphs (1) and (2) must be formulated by the undertakings clearly, comprehensively and in a form easily accessible to subscribers.

(5) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission may issue binding instructions to the undertakings providing electronic communications services regarding compliance with Paragraphs 1 and 4.

**Article 228.** (1) (Previous text of Article 228, amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The user contract shall enter into effect within 7 days after the conclusion thereof, unless the user has expressly declared a wish in writing to have the contract put into effect immediately.

(2) (New, SG No. 105/2011, effective, SG No. 29.12.2011, repealed, SG No. 20/2021).

(3) (New, SG No. 105/2011, effective, SG No. 29.12.2011, repealed, SG No. 20/2021).

(4) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The lack of a declared wish by the user under Paragraph (1) for immediate entering into effect of the contract may not be grounds for the undertaking to refuse to conclude the contract. This requirement shall be waived in the cases where upon signature of the contract terminal equipment is also provided.

(5) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Within the term under Paragraph (1), where applicable, the user shall have the right to withdraw unilaterally from the contract without penalty.

(6) (New, SG No. 105/2011, effective, SG No. 29.12.2011, repealed, SG No. 20/2021).

**Article 228a.** (New, SG No. 20/2021) (1) Undertakings providing public electronic communications services, except machine-to-machine communications services, shall prepare a short and easily readable summary of an user contract according to the template pursuant to the Implementing Regulation (EU) 2019/2243 of 17 December 2019 establishing a contract summary template to be used by providers of public electronic communications services pursuant to Directive (EU) 2018/1972 of the European Parliament and of the Council (OJ, L 336/274 of 30 December 2019), hereinafter referred to as "Implementing Regulation (EU) 2019/2243".

(2) Undertakings providing public electronic communications services, other than machine-to-machine communications services, shall fill in the template for a contract summary under Paragraph (1) and shall provide it free of charge to the consumers before conclusion of the contract, including the case of remote contracts.

(3) Where due to objective technical reasons it is not possible to provide the summary of a contract under Paragraph (2), the latter shall be provided within 7 days after concluding the Contract. In such case the contract shall enter into force on the date on which the user, having received the summary, confirms his/her agreement with the concluded contract.

(4) The summary under Paragraphs (2) and (3) shall not be changed, unless the parties explicitly agree in writing thereon before concluding the contract. The summary under Paragraphs (2) and (3) shall be an integral part of the contract with the consumer in order to certify the identity between the latter and the contract terms at the time of the conclusion thereof.

## **Section II**

### **Duration and Termination of Contract**

**(New heading, SG No. 20/2021)**

**Article 229.** (Previous text of Article 229, amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) The undertakings providing public electronic communications services, number-independent interpersonal communications services and other than machine-to-machine communication services shall offer consumers the option of concluding a contract with an initial duration of no more than two years.

(2) The undertakings under Paragraph (1) shall offer the consumers a possibility to conclude a contract for a duration of up to one year.

(3) Irrespective of the duration of the contract, the conditions and procedures for termination of contracts between the undertakings under Paragraph (1) and the consumers shall not be an obstacle to switching the provider.

(4) Paragraphs (1), (2) and (3) shall not apply to the duration a contract for payment of instalments in cases where the consumer has agreed, in a separate contract, to pay contributions exclusively for the establishment of a physical connection, in particular to very high capacity networks. Instalment contracts for building a physical connection shall not include the terminal equipment, such as a modem or router and, shall not prevent consumers from exercising their rights under this Section.

(5) Paragraphs (1), (2) and (3) shall also apply to end-users which are micro-undertakings, small undertakings or non-for-profit legal entities, unless they have expressly waived their respective rights upon conclusion of the contract.

**Article 229a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) A fixed-term contract for electronic communications services, other than number-independent interpersonal communication services and other than machine-to-machine communication services, may be renewed only upon the express written consent of the end-user regarding the conditions for renewal. Where no such consent has been given, after the expiry of the duration of any such contract it shall be transformed into an open-ended contract under the same conditions. An end user shall have the right to terminate the open-ended contract at any time by one-month notice, without paying penalties and additional costs therefor, except the amounts due for the service during the notice period.

(2) Before the automatic conversion of the contract into an open-ended one, the undertaking shall inform the end users in due time, in an understandable way and on a durable medium about the expiry of the contractual relations and the ways to terminate the contract. At the same time, the undertakings shall recommend to end users the best tariffs for the services used by the latter. The undertakings shall provide end-users with information on the best tariffs at least once a year.

(3) Where an end-user has the legal right to terminate a contract for a public electronic communications service other than a number-independent interpersonal communication service before the end of an agreed period, the end-user shall not owe any other compensation than for the retained subsidized terminal equipment.

**Article 229b.** (New, SG No. 20/2021) With regard to transmission services for machine-to-machine connection, the rights under Article 229a (3), Article 230 (2) and (3), and Article 230g (3) shall be used only by end users, who are consumers, micro-undertakings, small undertakings or non-for-profit legal entities.

**Article 230.** (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) Where a contract with the end user is concluded under general conditions, the general conditions or the amendments thereto shall be published by the undertakings on the Internet sites thereof and displayed in a visible place in their retail outlets or, in another appropriate manner, within a period of not less than one month prior to the entry into effect of the said General Conditions or amendments thereto.

(2) End-users shall have the right to terminate the contract concluded by them at no additional cost where the provider of public electronic communications services, other than number-independent interpersonal communication services, notifies them of proposed changes to the contract terms, including changes to the general terms and conditions except where the proposed changes are solely in the interest of the end-user or are of an administrative nature and do not adversely affect the end-user or, are directly imposed by current legislation, European Union law or a competent authority.

(3) In the cases under Paragraph (2), the providers shall notify the end users of all changes in the contract conditions, including changes in the general conditions, within not less than one-month prior their entry into force and, at the same time notify them of their right to terminate their contract without additional costs, if they do not accept the new conditions. The right to terminate the contract shall be exercised within one month after the notification.

(4) The user shall have the right to terminate the contract in case of any significant and continuous or frequently repeated discrepancy between the actual indicators of the electronic communications service, other than Internet access service or number-independent interpersonal communication service and, the indicators set out in the contract. In their contracts with end-users the undertakings should include definitions of "significant and persistent non-compliance" and "significant and recurring non-compliance".

(5) In the cases under Paragraph (4) the consumer shall also have all other legal remedies.

(6) The notification under Paragraph (3) shall be performed in a clear and comprehensive manner on a durable medium. The Commission may determine the manner and form of the notification.

(7) Upon termination of a contract, end-users shall have the option to return the digital TV equipment through a free and easy procedure, unless the provider proves that it is fully interoperable with the digital TV services of other providers, including those to which the end user has switched.

**Article 230a.** (New, SG No. 20/2021) (1) The General Conditions may be amended or supplemented on the initiative of the undertaking or of the Commission.

(2) The General Conditions shall be amended or supplemented on the initiative of the undertaking under Article 230 herein.

(3) The General Conditions may be amended or supplemented on the initiative of the Commission for the purpose of protection of the interests of end-users. In such case, the Commission shall issue binding instructions to the undertakings regarding the relevant amendments.

**Section III**  
**(New, SG No. 20/2021)**  
**Switching of Provider**

**Article 230b.** (New, SG No. 20/2021) (1) Internet service providers shall, where technically feasible, ensure the possibility of provider switching by providing the end user with the relevant information before and during the switching process, in order to ensure the continuity of the internet access service, unless technically not feasible.

(2) The receiving provider shall activate the internet access service as soon as possible, on the date explicitly agreed between the receiving provider and the end user. The donor provider shall continue to provide its Internet access services under the same conditions while the receiving provider activates its Internet access services. The interruption of the service during the provider switching process shall not exceed one working day.

(3) The undertakings whose access networks or facilities are used by a donor or receiving provider, or both, shall ensure that there is no deprivation of service which would delay the provider switching process.

(4) The receiving provider shall conduct the provider switching processes in cooperation with the donor provider. Providers shall be obliged not to delay, not to abuse the provider switching processes and not to switch the provider without the explicit consent of the end users. End-user contracts with the donor provider shall be automatically terminated once the provider switching process is complete.

(5) Upon request, donor providers shall reimburse the remaining credit to consumers who use prepaid services. The donor provider may charge a fee for the reimbursement only if provided for in the contract. Any such fee shall be proportionate and commensurate to the actual costs incurred by the donor provider in offering the reimbursement.

**Article 230c.** (New, SG No. 20/2021) (1) The Commission shall adopt rules for the provider switching process taking into account the technical feasibility and the need to maintain continuity of the service for the end users, after a public consultation under Article 36 and, the Commission shall promulgate the said rules in the State Gazette.

(2) End-users must be properly informed and protected during the process and not be transferred to another provider against their will.

(3) The rules under Paragraph (1) shall provide for a compensation mechanism by providers to end users in an easy and timely manner in case of non-compliance with the obligations under this Section, including in cases of delays or abuses of the provider switching process, as well as missed service and installation meetings.

**Section IV**  
**Package Offers**  
**(New heading, SG No. 20/2021)**

**Article 230d.** (New, SG No. 20/2021) (1) If a package of services offered to a user or, a package of services and a terminal equipment shall include at least an Internet access service or number-based public interpersonal communication services, Articles 228a - 230, Article 230b (1) and (2) and Article 231a for all elements of the package, including those elements that do not fall within the scope of these provisions.

(2) Where the consumer has the right on legal grounds to terminate some of the elements in the package under Paragraph (1) prior to expiration of the agreed duration, due to lack of compliance with the contract or lack of delivery, the consumer has the right to terminate the contract in respect of all elements of the package.

(3) Where the end user chooses to keep the terminal equipment provided in a package upon conclusion of a contract, the compensation due may not exceed the lesser of the two amounts:

1. a proportionate part of the value of the equipment depending on the time of use of thereof, agreed upon conclusion of the contract, or
2. the remaining part of the service fee until expiry of the contract.



(4) After the payment of the compensation by the end user under Paragraph (3) the provider shall remove all conditions and restrictions on the use of the terminal equipment free of charge in other networks.

(5) The conclusion of a contract for additional services or terminal equipment provided or distributed by the same provider of Internet access services or number-based public interpersonal communication services shall not extend the initial term of the contract in which such services or terminal equipment are added, unless the consumer explicitly agrees thereto upon conclusion of the contract for the additional services or the terminal equipment.

(6) Paragraphs (1) and (5) shall also apply to end-users which are micro-undertakings, small undertakings or non-for-profit legal entities, unless they have expressly waived all or part of these provisions.

**Article 231.** (Repealed, SG No. 105/2011, effective 29.12.2011, new, SG No. 27/2013) (1)

In case of delivery of TV programmes by enterprises, which provide public electronic communications networks and/or services, a list of the names of the TV programmes, included into the price package, shall be attached to the contract.

(2) (Supplemented, SG No. 28/2018, effective 29.03.2018) The undertakings referred to in Paragraph (1) shall keep on paper and in electronic form a register of consumer complaints, alerts and proposals, contracts with content providers, as well as an up-to-date database of subscribers, subject to the requirements for the protection of personal data.

(3) (Supplemented, SG No. 20/2021) In instances of dropping of a TV programme from the list under Paragraph (1) the customer shall be entitled to terminate the contract without owing any compensation and/or penalty, after serving one month's written notice. The right to terminate the contract may be exercised within two months from the explicit notification of the consumer on dropping out of a television program from the list under Paragraph (1).

(4) (New, SG No. 20/2021) Paragraph 3 shall not apply where the distribution of the relevant dropped program from the list under Paragraph (1) has been suspended on the territory of the country.

(5) (Renumbered from Paragraph (4), amended, SG No. 20/2021) Any arrangements, which contravene Paragraphs (1) - (4), shall be null and void.

## **Section V**

### **Transparency, Comparability of Offers and Publication of Information**

**(New heading, SG No. 20/2021)**

**Article 231a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021)

(1) The undertakings providing public interpersonal communication services or internet access services shall publish on their website, in a prominent place in their retail outlets and, if necessary in another appropriate way, up-to-date information on:

1. the General Conditions of the contract with end-users, where applicable;
2. contacts of the undertaking: name, registered office and address of management, telephone number, as well as e-mail address and website, if any;
3. description of the services offered;
  - a) the scope and main characteristics of each of the services offered, including any minimum levels of quality of services offered and any restrictions imposed by the provider on the use of the terminal equipment provided;
  - b) tariffs for the services offered, including information on the volume of the included communication services (megabytes, minutes, messages, etc.) in the specific tariff plans and the applicable tariffs for additional communication units, telephone numbers or services subject to certain price conditions, access and maintenance fees, all types of consumer charges, special and target tariff plans and all additional charges, as well as the costs related to the terminal equipment;
  - c) services offered for maintenance, customer service and support and, contact data of the relevant services;

- d) standard contractual terms, including contract duration, contract termination, fees due on early termination of the contract, rights in connection with the termination of package offers or elements thereof and procedures and direct fees related to number portability and other identifiers, where applicable;
  - e) for undertakings providing number-based interpersonal communication services: information on access to emergency services and the provision of information on the location of the caller or any restrictions therefor;
  - f) for undertakings providing number independent interpersonal communication services: information on the extent to which access to emergency services can be provided;
  - g) details of products and services, including functions, practices, policies and procedures and, changes to the operation of a service specifically designed for users with disabilities, in accordance with current legislation and European Union law for harmonization of accessibility requirements for products and services;
4. dispute resolution mechanisms, including those developed by the undertakings.
- (2) The information under Paragraph (1) shall be published in clear, comprehensive and easily accessible machine-readable form and in accessible format for end-users with disabilities in accordance with the current legislation and the law of the European Union in the field of harmonization requirements for accessibility of products and services.
- (3) The Commission may establish additional requirements in respect of the form in which the information covered under Paragraph (1) is to be published.
- (4) Upon request, the information under Paragraph (1) shall be submitted to the Commission prior to the publication thereof.

**Article 231b.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021)

- (1) The Commission shall, on its own or by assigning, provide free access to at least one independent means of comparison, enabling the end-users to compare and evaluate different Internet access services and number-based public interpersonal communication services and, where applicable, number-independent public interpersonal communication services, in respect of:
- 1. prices and tariffs for services provided against recurring or consumption-based direct cash payments, and
  - 2. the quality of service provision, where a minimum service quality is offered or the undertaking is required to publish such information pursuant to Article 235a.
- (2) The means of comparison under Paragraph (1):
- 1. shall be functionally independent of the service providers under Paragraph (1), ensuring that the providers are treated equally in the search results;
  - 2. shall clearly state the owners and operators of the means of comparison;
  - 3. shall set out clear and objective criteria on which the comparison is based;
  - 4. shall use clear and unambiguous language;
  - 5. shall provide accurate and up-to-date information and indicate the date of the last update;
  - 6. shall be available to any provider of Internet access services or public interpersonal communication services, providing thereby the appropriate information and including a wide range of offers covering a significant part of the market and, where the information provided does not contain a complete overview of the market this shall be clearly announced before displaying the results;
  - 7. provides an effective procedure for reporting false information;
  - 8. shall include the possibility to compare prices, tariffs and quality of the service provided among the available offers to consumers and between such offers and the standard offers publicly available to other end-users.
- (3) Upon request by a provider of a means of comparison, the means of comparison which meet the requirements under Paragraph (2) shall be certified by a certification mechanism determined by the Commission.
- (4) Third parties shall have the right to use, free of charge and in open data formats, the information published by providers of Internet services or public interpersonal communication services, for the purposes of providing such independent means of comparison.

**Article 231c.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 231d.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The Commission may require from the undertakings providing number-based public interpersonal communication services or Internet access services to disseminate to existing and new end-users, free of charge and in a standardized format, information of public interest, such as:

1. the most common uses of Internet access services and number-based public interpersonal communication services for illegal activities or the distribution of harmful content, in particular where it may prejudice the rights and freedoms of others, including infringements of the rights of data protection and copyright and related rights, and the legal consequences thereof, and
2. the means of protection against risks to personal security, privacy and personal data when using Internet access services and number-based public interpersonal communication services.

(2) (Amended, SG No. 20/2021) The information under Paragraph (1) shall be provided by the undertakings by commonly used means of communication.

**Article 232.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 61/2014, effective 25.07.2014, repealed, SG No. 20/2021).

**Article 233.** (Repealed, SG No. 20/2021).

**Article 234.** (1) (Amended, SG No. 20/2021) The Commission may elaborate standard General Conditions of the contracts between undertakings and end-users and shall post the said conditions on the Internet site thereof.

(2) (Amended, SG No. 20/2021) The undertakings may elaborate their General Conditions in accordance with the template of General Conditions under Paragraph (1).

**Article 235.** (Repealed, SG No. 105/2011, effective 29.12.2011).

**Article 235a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The Commission may require from the undertakings providing internet access services and public interpersonal services to publish comprehensive, comparable, reliable, easily accessible and up-to-date information to end-users on the service quality of the undertakings, in so far as the undertakings control at least certain elements of the network directly or by virtue of a service level agreement and, on the measures taken by such undertakings to ensure equality of access for users with disabilities.

(2) (New, SG No. 20/2021) The Commission may require from providers of public interpersonal communication services to inform the consumers if the quality of the services they provide depends on external factors such as control of signal transmission or network connectivity.

(3) (Renumbered from Paragraph (2), SG No. 20/2021) The Commission shall impose the obligation referred to in Paragraph (1) after conduct of consultations with the interested parties.

(3) (Renumbered from Paragraph (3), SG No. 20/2021) Upon request, the undertakings shall supply the information referred to in Paragraph (1) to the Commission in advance of its publication.

**Article 236.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) (1) The Commission shall determine, taking the utmost account of the guidelines of the Body of European Regulators for Electronic Communications, the quality of service parameters to be measured, the applicable methods of measurement and, the content, format and the manner of publication of the information, including possible mechanisms for quality certification.

(2) When necessary, the following parameters shall be used:

1. for providers of access to the public electronic communications network: time for initial connection to the network, coefficient of access line failures, time to repair failures;
2. for providers of interpersonal communication services, where they exercise control over certain network elements or, have a service level agreement with undertakings providing network access: connection time, quality of voice connection, complaints about correctness of the accounts, the rate of unsuccessful calls, the probability of failure, signalling delay;
3. for providers of Internet access services: delay, delay fluctuation and packet loss.

**Article 236a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 237.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) Undertakings shall take all necessary measures to ensure, as far as possible, the availability of voice

communications and internet access services provided over public electronic communications networks in the event of significant network failures or in cases of force majeure.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) Undertakings providing voice communication services shall take all the necessary actions to ensure the continuous access to emergency call services and the continuous transmission of alerts to the public.

**Article 237a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) Without prejudice to Article 198, the Commission may impose on the undertakings providing number-based public interpersonal communication services or internet access services, to provide free of charge to the end users all or some of the additional opportunities under Article 198(1) or Article 257(1) and (11), where technically possible. The additional opportunities under Items 3, 4 and 7 of Article 198(1) shall be provided only to consumers.

(2) (Amended, SG No. 20/2021) The manner of using the opportunities under Paragraph (1) shall be determined in the contracts with the end users.

(3) (Amended, SG No. 20/2021) Taking account of the access ensured of end-users to the facilities under Article 198 (1) or Article 257(1) and (11) herein and after consultations under Article 37 herein, the Commission may decide not to impose obligations under Paragraph (1) or to withdraw the obligations imposed in all the national territory or part thereof, when the Commission ascertains that access to such facilities is ensured.

**Article 237b.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The Commission shall determine the requirements to the undertakings providing public electronic communications services in order to ensure to disabled consumers:

1. (amended, SG No. 20/2021) access to electronic communications services and related contractual information, including emergency and socially significant services provided through the number 116000 and, the other harmonized services of social significance provided through numbers in this range equivalent to the access provided to the majority of end users;

2. (amended, SG No. 20/2021) opportunity for a choice of undertakings and services available to the majority of end-users;

3. (new, SG No. 20/2021) access to emergency services of disabled consumers, who are nationals of another EU Member State residing in the territory of Bulgaria, on an equal footing with other end-users without prior registration, where applicable.

**Article 237c.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The persons that have been granted rights to use numbers in the numbering range for harmonized numbers for harmonized services of social significance shall take measures to promote the existence and use of the services provided by numbers 116000 and 116111, as well as of the other harmonized services of social significance provided through numbers in this range, ensuring thereby free access of end-users to such services.

**Article 238.** (Repealed, SG No. 20/2021).

**Article 239.** (Repealed, SG No. 20/2021).

**Article 240.** (Repealed, SG No. 20/2021).

**Article 241.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 242.** (1) The Commission shall prepare an annual analysis of the complaints under this Section, in which the Commission shall ascertain the causes of the said complaints.

(2) The analysis shall be included in the annual report of the Commission.

## **Section VI**

**(New, SG No. 20/2021)**

### **Emergency Calls and Public Warning Systems**

**Article 242a.** (New, SG No. 20/2021) (1) End-user access to emergency services shall be carried out through the single European emergency number 112. All emergency calls shall be answered appropriately and handled according to the national organization of emergency systems.

(2) Undertakings, public authorities and emergency services shall duly inform end-users of the existence and use of the single European emergency number 112, as well as its accessibility features, including through initiatives specifically targeted at people traveling between European Union member states and at consumers with disabilities. Such information shall be provided in accessible formats relating to various types of disabilities.

(3) Undertakings providing number-based public interpersonal communication services shall provide information to the most appropriate emergency call center on the location of a caller to 112, immediately after establishing an emergency call connection. This shall include network-based location information and, where available, information on caller location received from the telephone. The collection and transmission of caller location information shall be free of charge for the end-user and for the relevant centers for emergency calls to the single European emergency number 112. The national emergency call system of the single European number 112 shall direct the information to the most appropriate emergency call center.

**Article 242b.** (New, SG No. 20/2021, effective 21.06.2022) Where public warning systems are in place, alerts for forthcoming or ongoing severe emergencies and disasters shall be transmitted by number-based mobile interpersonal service providers to the affected end-users.

**Article 242c.** (New, SG No. 20/2021) (1) The requirements under this Chapter, except Article 225, shall not apply to the micro-undertaking providing number-independent interpersonal communication services, unless they also provide other electronic communication services.

(2) The undertakings under Paragraph (1) shall inform the end users on the exception under Paragraph (1) before conclusion of the individual contract.

## **Chapter Fifteen**

### **SECURITY OF ELECTRONIC COMMUNICATIONS NETWORK AND SERVICES, CONFIDENTIALITY**

#### **CONFIDENTIALITY OF COMMUNICATIONS AND PROTECTION OF DATA ON USERS (Heading supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021)**

##### **Section I**

##### **Security of Electronic Communications Network and Services**

##### **(Heading supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021)**

**Article 243.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) (1) The undertakings providing public electronic communications networks or services shall take appropriate technical and organisational measures to manage the risk posed to security of networks and services ensuring the appropriate level of security corresponding to the assessed risk.

(2) The measures under Paragraph (1), including encryption, where appropriate, shall be aimed at preventing and minimizing the impact of security incidents on users and other networks and services.

(3) The Commission shall adopt rules on the minimum security requirements for public electronic communications networks and services and, the risk management methods for their security. In determining them, the Commission shall comply with the requirements of the applicable acts of the European Commission and shall take into account as far as possible the recommendations, guidelines, opinions, general and good practices and methodologies of the European Union Cyber Security Agency and the applicable European cybersecurity certification schemes established in acts of the European Commission and, the applicable European and international standards and standardization documents. The rules shall be adopted after conduct of a public consultation under Article 36 herein and shall be promulgated in the State Gazette.

**Article 243a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

**Article 243b.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The undertakings providing public electronic communications networks or services shall immediately notify the Commission of any security related incident having a significant impact on the operation of networks or services.

(2) (Amended, SG No. 20/2021) The Commission may inform the public or require the undertakings to do so, where the Commission determines that disclosure of the incident is in the public interest.

(3) (Amended, SG No. 20/2021) The Commission, at its discretion, may inform about the cases under Paragraph (1) the competent authorities in the other Member States of the European Union and the European Union Agency for Cyber Security.

(4) (Supplemented, SG No. 94/2018) The Commission shall inform the Minister of Transport, Information Technology and Communications and the National Computer Security Incident Response Team referred to in Article 19(1) of the Cybersecurity Act of the cases referred to in Paragraph (1).

(5) (Amended, SG No. 20/2021) Once a year the Commission shall submit a summary report to the European Commission and the European Union Agency for Cyber Security on the notifications received under Paragraph (1) and the actions taken.

(6) (New, SG No. 20/2021) To determine the impact as significant as of a security related incident under Paragraph (1), the following criteria shall be taken into account, where available:

1. the number of users affected by the security incident;
2. the duration of the security incident;
3. the geographical scope of the area affected by the incident;
4. the extent to which the operation of the network or service is affected;
5. the degree of impact on the business and public activities.

(7) (New, SG No. 20/2021) The required information, the form and the manner of notification of the security related incidents under Paragraph (1), shall be determined by the Commission in the rules under Article 243(3).

**Article 243c.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 20/2021) The Commission may require from the undertakings providing public electronic communications networks or services to:

1. (amended, SG No. 20/2021) provide information required to assess the security of the services and networks thereof, including documented security policies, and
2. (amended, SG No. 20/2021) subject the security to audit carried out by a qualified independent body or another competent authority and, to submit the results of the audit to the Commission within 7 days from receipt of the report; the costs for the audit shall be at the expense of the undertaking.

(2) (Amended, SG No. 20/2021) The Commission may give binding instructions to the undertakings under Paragraph (1), including for measures required to overcome the consequences of a security incident or, for prevention of such incident in the presence of a significant threat, as well as for implementation deadlines of the binding instructions.

**Article 244.** (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) (1) Undertakings providing public electronic communications networks or services shall inform the users, who may be affected by a specific and significant threat of an incident related to the security of their networks or services, of any possible protective or corrective measures that users may take to protect the security of their communications.

(2) The undertakings under Paragraph (1) may also inform the users about the threat itself.

(3) The information under Paragraphs (1) and (2) shall be submitted to users free of charge.

(4) The undertakings under Paragraph (1) shall take at their own expense appropriate and immediate measures for elimination of any threats to the security of their networks or services and shall restore their normal level of security.

**Article 244a.** (New, SG No. 20/2021) (1) The Commission may require from the undertakings providing public electronic communications networks or services to provide comprehensive and reliable information on specific security incidents which have had a significant impact on the operation of their networks or services.

(2) The Commission may request information on the security risks and incidents, which affect the public electronic communications networks and services, as well as recommendations to handle them by the National Computer Security Incident Response Team under Article 19 (1) of the Cybersecurity Act.

(3) (Amended and supplemented, SG No. 15/2022, effective 22.02.2022) The Commission may consult and cooperate with the Ministry of Interior, the Ministry of Defence, the Ministry of e-

Government, the State Agency for National Security, the competent bodies designated under Article 16 of the Cybersecurity Act, or the Commission for Personal Data Protection.

## **Section II**

### **Confidentiality of Communications**

**Article 245.** (1) (Amended, SG No. 20/2021) The undertakings providing public electronic communications networks and/or services shall be obligated not to disclose and disseminate the communications and the related traffic data, location data, as well as the data necessary to identify the end-user, which have come to the knowledge of the said undertakings in the course of the provision of electronic communications networks and/or services.

(2) The obligations covered under Paragraph (1) shall furthermore apply to the employees of the undertakings referred to in Paragraph (1), who have or could obtain access to the communications and the data covered under Paragraph (1).

**Article 246.** (1) For the purpose of protecting the confidentiality of communications and the related traffic data, the listening, recording, storage or other kinds of interception or surveillance of communications by others than the sender and recipient of the communication without the express consent of the sender and recipient shall be prohibited, with the exception of the cases where this is provided for in a law.

(2) The prohibition referred to in Paragraph (1) shall not apply in respect of any undertakings providing electronic communications networks and/or services where:

1. the storage is required for technical reasons or is an essential part of the provision of the service;
2. the technical parameters of the technical parameters of the service are checked by persons empowered under this Act.

(3) In the cases covered under Paragraph (2), the undertakings providing public electronic communications networks and/or services shall be obligated to erase the communications as soon as the reason for the storage of the said communications is no longer valid.

**Article 247.** (1) In addition to the exceptions covered under Article 246 (2) herein, the restrictions shall furthermore not apply regarding the storage of communications and the related traffic data under the following conditions:

1. the recording is necessary and is provided for in a law for the purpose of providing evidence of the conclusion of commercial transactions, and
2. the sender and recipient of the communications have been informed prior to the recording about the recording, the purposes thereof and the duration of the storage, as well as of the right to refuse such recording.

(2) The recorded communications and related traffic data shall be stored for a period not longer than the period during which the said communications and data can be used according to Item 1 of Paragraph (1).

## **Section III**

### **End-User Data Protection**

**(Heading amended, SG No. 20/2021)**

**Article 248.** (1) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The undertakings providing public electronic communications networks and/or services, including networks supporting data collection and identification equipment, may process data of end-users where such data are designated directly for the provision of electronic communications services.

(2) (Amended, SG No. 20/2021) End-user data shall include:

1. (amended, SG No. 20/2021) traffic data: the data necessary for the provision of electronic communications services, for billing, formation of the bills of end users – contract party under Article 227, as well as for proving the authenticity thereof:

(a) (amended, SG No. 20/2021) the calling end-user number and the called end-user number, card number for electronic payment;

- (b) start and end of the call, specified by date and time, with accuracy up to the second, to the extent technically feasible, and/or, in case of data transfer, volume of the transferred data, for billing purposes;
  - (c) type of the service provided;
  - (d) points of interconnection upon establishment of the call, start and end of the use of the said points, specified by date and hour, with accuracy up to the second, to the extent technically feasible;
  - (e) data on the type of connection or time zones and geographical areas, necessary for billing purposes;
  - (f) location of a user of a service provided over a mobile network, including where a roaming service is provided;
2. (amended, SG No. 20/2021) data necessary to prepare the documents under Article 260 (1) and Article 260a (1), as well as to prove their authenticity, including the following data:
- (a) (amended, SG No. 20/2021) Data for the end-user – contract party under Article 227: for natural persons: forename, patronymic and surname, Personal Identity Number and permanent address, and for non-residents: Personal Number; for legal persons and sole-trader natural persons: company name, registered office, address of management and a relevant identification code;
  - (b) type of electronic communications services used;
  - (c) total number of price units charged for the period of formation of the bill in case of periodic payment;
  - (d) price of the services used for the relevant period;
  - (e) (amended, SG No. 20/2021) information related to the option for payment and the payments made and payments due;
  - (f) information regarding changes in the use of the service: restriction of use, lapse of a restriction;
3. (amended, SG No. 20/2021) location data: the data processed in electronic communications networks to determine the geographical location of the electronic communications terminal equipment of the user.

**Article 249.** (1) (Amended, SG No. 17/2019, SG No. 20/2021) The undertakings providing public electronic communications services may not request from an end-user more data than those covered under Item 2(a) of Article 248(2) herein for provision of services, unless otherwise provided for by law or where the service cannot be provided without requiring other data.

(2) (Amended, SG No. 20/2021) The undertakings providing public electronic communications services may not make the provision of the services depend on the consent of the user that the data thereon be used for other purposes.

(3) (New, SG No. 20/2021) Where a terminal equipment is also provided upon conclusion of a contract, the undertakings providing public electronic communications services shall have the right to request from other undertakings providing public electronic communications services information on the existence of unpaid bills of the end-user to them. The requested undertakings shall provide the requested information when the following conditions are satisfied:

- 1. the total amount of the end-user obligation exceeds 15 per cent of the minimum wage for the country, and
- 2. the duration of the end-user delay is at least 30 days, and
- 3. the requested undertakings have not been notified of a challenge to the end-user obligation in court or, if the obligation has been challenged, the basis and amount of the claim has been established in an effective court decision, and
- 4. the applicable limitation period has not expired.

(4) (New, SG No. 20/2021) the conditions, the methodology and the terms for providing information under Paragraph (3) shall be determined by joint instructions of the Commission and the Commission for Personal Data Protection.

(5) (New, SG No. 17/2019, renumbered from Paragraph (3), amended, SG No. 20/2021) Undertakings providing public electronic communications services shall process the legally collected personal data of users – in accordance with this Act, and for issues not settled herein – in accordance with Regulation (EU) 2016/679.



(6) (New, SG No. 20/2021) For the purposes of identifying the end user and/or a representative thereof (proxy or legal representative), ensuring the accuracy of the data for the end user/a representative thereof, including the data under Item 2 of Article 248 (2), as well as preventing abuses, the undertakings providing public electronic communication services may:

1. require the end user or a representative thereof to present an identity document, including record and store data on the type, number, date, place and authority of issuance of the presented identity document;

2. check the data under Item 2a of Article 248 (2) of the end user or a representative thereof, of the photo from the presented ID document, as well as of the data under Item 1 by reference in the information funds for the Bulgarian ID documents, except for the fingerprints, and in the unified register for foreigners; the reference shall be accessed only by the persons explicitly designated by the undertaking.

**Article 250.** (1) (Supplemented, SG No. 105/2011, effective 29.12.2011) The undertakings providing public electronic communications networks or public electronic communications services, which collect, process and use traffic data for the purpose of a specific call or the establishment of a connection, must erase the said data or make them anonymous upon termination of the said call or connection, unless the said data are directly necessary for the establishment of a new call or connection or in the cases provided for in this Act.

(2) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings providing public electronic communications services must provide to the end users accurate and full information about the type of traffic data processed for billing purposes and for interconnection payments, and about the duration of such processing.

(3) (Amended, SG No. 20/2021) The undertakings under Paragraph (1) shall store and process traffic data for the purposes of billing and interconnection payments, until the payment is effected, except in the cases where they are challenged or a payment is pursued under this Act.

(4) The undertakings referred to in Paragraph (1) shall provide information about traffic data to the Commission at its request, in connection with settlement of disputes on access, interconnection and billing.

(5) (Amended, SG No. 20/2021) The undertakings under Paragraph (1) may use the data under Paragraph (1) for the purposes of market research, including the extent to which the electronic communications services provided by the said undertakings satisfy the requirements of end users, or for the provision of value added services requiring further processing of traffic data or location data other than the traffic data, necessary for transmission of the communication or the billing thereof, solely where the said undertakings have obtained the consent of end users. The personal data on end-users, received in connection with the research, shall be made anonymous.

(6) (Amended, SG No. 20/2021) After obtaining the prior consent of end users, the undertakings under Paragraph (1) may process the traffic data information in market research.

(7) (Amended, SG No. 20/2021) The undertakings under Paragraph (1) shall provide to end users accurate and full information about the type of traffic data which are processed, as well as about the duration of such processing.

(8) (Amended and supplemented, SG No. 20/2021) After obtaining the consent of the end users the undertakings under Paragraph (1) shall have the right to provide traffic data related to the end users for the purposes of provision of value added services requiring further traffic data processing or location data other than the traffic data necessary for transmission of the communication or for the billing of the communication.

(9) (Amended, SG No. 20/2021) The undertakings under Paragraph (1) shall include a mechanism by which the end users may at any time withdraw their consent given under Paragraph (5).

**Article 250a.** (New, SG No. 17/2010, effective 10.05.2010; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

(1) The undertakings providing public electronic communications networks and/or services shall retain, for a period of twelve months, data generated or processed in the process of the activity thereof, which are necessary:

1. to trace and identify the source of the communication;
2. to identify the destination of the communication;
3. to identify the date, time and duration of the communication;
4. to identify the type of the communication;
5. to identify the communications terminal equipment of the user or what purports to be a communications terminal equipment of the user;
6. to identify the location label (Cell ID).

(2) The data covered under Paragraph (1) shall be retained for the needs of the detection and investigation of serious criminal offences and criminal offences covered under Articles 319a to 319f of the Criminal Code, as well as for the tracing of persons.

(3) Other data, including data disclosing the content of the communications, may not be retained according to this procedure.

(4) The undertakings providing public electronic communications networks and/or services shall be obligated to destroy the data after expiry of the period referred to in Paragraph (1).

(5) In respect of data which have been accessed and retained, the head of the authority which submitted a request for access may approach the undertaking which has made the said data available with a request to store the said data for a period not longer than six months reckoned from the date on which the said data were made available.

(6) The data referred to in Paragraph (1) shall be processed and retained in accordance with the requirements of the Personal Data Protection Act.

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**Article 250b.** (New, SG No. 17/2010, effective 10.05.2010; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

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(1) The heads of the following authorities shall have the right to request information about the data covered under Article 250a (1) herein, each acting within their competence thereof:

1. the specialized directorates, the territorial directorates and the stand-alone territorial departments of the State Agency for National Security;
2. (amended, SG No. 44/2012, effective 1.07.2012, SG No. 52/2013, effective 14.06.2013, SG No. 53/2014, SG No. 14/2015) the National Police Directorate General, the Combat Against Organised Crime Directorate General and its territorial units, the Border Police and its territorial units, the Interior Security Directorate, the Sofia MoI Directorate and the regional directorates of the Ministry of Interior;
3. the Defence Information Service and the Military Police Service under the Minister of Defence;
4. the National Intelligence Service.

(2) The respective head of the authorities covered under Paragraph (1) shall prepare a reasoned written request for access to the data covered under Article 250a (1) herein, stating:

1. the legal basis and the purpose for which the access is necessary;
2. the registration number of the case file for which generation of the information is necessary;
3. the data which must be entered in the information;
4. the period of time which the information should cover;
5. the designated official whereto the data are to be made available.

(3) The authorities covered under Paragraph (1) shall keep a special register, which shall not be open to public inspection, in respect of the requests made.

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**Article 250c.** (New, SG No. 17/2010, effective 10.05.2010; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

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(1) The data covered under Article 250a (1) herein shall be accessed after permission by the president of the regional court or by a judge empowered thereby exercising jurisdiction over the head office of the authority which requested access, whereupon an order to provide access to the data shall be issued.

(2) The order referred to in Paragraph (1) shall mandatorily contain:

1. the data which must be entered in the information;
2. the period of time which the information should cover;
3. the designated official whereto the data are to be made available;
4. name, position and signature of the judge.

(3) A special register, which shall not be open to public inspection, shall be kept at the regional courts in respect of the permissions as granted or refused.

(4) For the needs of criminal proceedings, the data covered under Article 250a (1) herein shall be made available to the court and to the pre-trial proceedings authorities under the terms and according to the procedure established by the Criminal Procedure Code.

(5) Data covered under Article 250a (1) herein, which concern a president of a regional court, an ascendant, descendant, sibling, spouse or de facto cohabitee thereof, shall be accessed after permission by the president of the competent district court.

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**Article 250d.** (New, SG No. 17/2010, effective 10.05.2010; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

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(1) The undertakings providing public electronic communications networks and/or services shall be obligated to ensure receivability of the order referred to in Article 250c (1) and in Article 251 (2) herein 24 hours a day, seven days a week.

(2) The heads of the undertakings providing public electronic communications networks and/or services shall transmit to the Communications Regulation Commission a list, stating therein:

1. a current address for receipt of the order referred to in Article 250c (1) and in Article 251 (2) herein;
  2. forename, patronymic, surname and position of the officials empowered to receive the orders referred to in Article 250c (1) and in Article 251 (2) herein, as well as telephones for contact with the said officials; upon any change in the data, the Communications Regulation Commission shall be notified in writing within 24 hours, and the Chairperson of the said Commission shall make the lists immediately available to the heads of the authorities covered under Article 250b (1) herein.
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**Article 250e.** (New, SG No. 17/2010, effective 10.05.2010; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

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(1) The undertakings providing public electronic communications networks and/or services shall generate information on the data covered under Article 250a (1) herein after receipt of an order to provide access. Any order to provide access as received shall be recorded in a special register which shall not be open to public inspection.

(2) The undertakings providing public electronic communications networks and/or services shall transmit the data to the official referred to in Item 3 of Article 250c (2) herein within the shortest possible period of time but in any case not later than 72 hours after receipt at the undertaking of the

order to provide access referred to in Article 250c (1) and in Article 251 (2) herein. The Minister of the Interior or officials empowered thereby in writing may determine a specific time limit within which the data are to be transmitted.

(3) Solely officials empowered in writing by the competent head of the undertaking may generate information on the data covered under Article 250a (1) herein at the undertakings providing public electronic communications networks and/or services.

(4) After generation, the information shall be signed by the manager of the relevant undertaking providing public electronic communications networks and/or services or by an official empowered thereby in writing. The information shall be recorded in a special register and shall be transmitted to the official whereto the data are to be made available as designated in the order.

(5) If possible, the order of the judge and the order referred to in Paragraph (4) shall be transmitted by electronic means in compliance with the requirements of the Electronic Government Act and the Electronic Document and Electronic Signature Act.

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**Article 250f.** (New, SG No. 17/2010, effective 10.05.2010; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

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The information referred to in Article 250e (4) herein, which is not used in the institution of a pre-trial proceeding, regardless of whether the said information constitutes classified information, shall be destroyed within six months after the date of receipt thereof by a three-member commission whereof the composition shall be determined by the competent head of the authorities covered under Article 250b (1), whereupon a memorandum shall be drawn up.

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**Article 251.** (Amended, SG No. 17/2009, SG No. 17/2010, effective 10.05.2010; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

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(1) The data covered under Article 250a (1) herein may furthermore be made available at the request of a competent authority of another State, where so provided for in an international treaty in force for the Republic of Bulgaria.

(2) The data covered under Article 250a (1) herein shall be accessed upon receipt of a request from a head of a chief or specialized directorate referred to in Items 1 and 2 of Article 250b (1) herein, after written permission by the president of the Sofia City Court or by a judge empowered thereby, whereupon an order to provide access to the data shall be issued. A special register, which shall not be open to public inspection, shall be kept at the Sofia City Court in respect of the permissions as granted or refused.

(3) The competent authority of the other State shall be informed of the result of the information generated on the data covered under Article 250a (1) herein according to the procedure provided for in the international treaty.

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**Article 251a.** (New, SG No. 17/2009; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria - SG No. 23/2015)

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(1) (Amended, SG No. 17/2010, effective 10.05.2010) The data referred to in Item 1 of Article 250a (1) herein shall be:

1. concerning a public telephone service: the calling telephone number and data necessary to identify the subscriber or user;

2. concerning Internet access, Internet electronic mail and Internet telephony: the user ID as allocated, the user ID and telephone number as allocated to any communication entering the public telephone network; data necessary to identify the subscriber or user to whom an Internet Protocol (IP) address, user ID or telephone number was allocated at the time of the communication.

(2) (Amended, SG No. 17/2010, effective 10.05.2010) The data referred to in Item 2 of Article 250a (1) herein shall be:

1. concerning a public telephone service: the telephone number dialled (the telephone number called) and, in cases involving supplementary services such as call forwarding or call transfer, the number or number to which the call is routed and data necessary to identify the subscriber or user;

2. concerning Internet electronic mail and Internet telephony: the user ID or telephone number of the intended recipient(s) of an Internet telephony call, data necessary to identify the intended recipient of the communication.

(3) (Amended, SG No. 17/2010, effective 10.05.2010) The data referred to in Item 3 of Article 250a (1) herein shall be:

1. concerning a public telephone service: the date and time of the start and end of the communication;

2. concerning Internet access; Internet electronic mail and Internet telephony: the date and time of the log-in and log-off of the Internet access service, based on a certain time zone, together with the IP address, whether dynamic or static, allocated by the Internet access service provider to a communication, and the user ID of the subscriber or register, the date and time of the log-in and log-off of the Internet electronic mail service or Internet telephony service, based on a certain time zone.

(4) (Amended, SG No. 17/2010, effective 10.05.2010) The data referred to in Item 4 of Article 250a (1) herein shall be:

1. the type of the public telephone service used;

2. concerning Internet electronic mail or Internet telephony: the Internet service used.

(5) (Amended, SG No. 17/2010, effective 10.05.2010) The data referred to in Item 5 of Article 250a (1) herein shall be:

1. concerning a fixed telephone service: the calling and the called telephone numbers;

2. concerning a public telephone service provided through a terrestrial mobile network: the calling and called telephone number, the International Mobile Subscriber Identity (IMSI) of the calling party, the International Mobile Subscriber Identity (IMSI) of the called party, the International Mobile Equipment Identity (IMEI) of the mobile electronic communications terminal equipment of the calling party, the International Mobile Equipment Identity (IMEI) of the mobile electronic communications terminal equipment of the called party; in the case of pre-paid services: the date and time of the initial activation of the service and the location label (Cell ID) from which the service was activated, and data necessary to identify the subscriber or user;

3. concerning Internet access, Internet electronic mail and Internet telephony: the calling telephone number of dial-up access, the digital subscriber line (DSL) or other end point of the originator of the communication.

(6) (Amended, SG No. 17/2010, effective 10.05.2010) Data referred to in Item 6 of Article 250a (1) herein shall be administrative addresses of a terrestrial mobile electronic communications network in which a call originated or terminated.

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**Article 251b.** (New, SG No. 24/2015, effective 31.03.2015) (1) The undertakings providing public electronic communication networks and/or services shall store for a period of 6 months data created or processed in the process of their activity which is necessary for:

1. tracing and identifying the connection source;

2. identifying the direction of the connection;

3. identifying the date, time and duration of the connection;

4. identifying the type of the connection;

5. (amended, SG No. 20/2021) identifying the user terminal equipment or what purports to be terminal equipment of the user;

6. establishing an identifier of the cells used.

(2) (Supplemented, SG No. 97/2016, effective 6.12.2016, SG No. 7/2018, SG No. 28/2020, effective 24.03.2020; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria as regards third sentence - SG No. 101/2020, supplemented, SG No. 20/2021)

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The data under Paragraph (1) shall be stored for the needs of the national security and for prevention, detection and investigation of serious crimes, including for the purposes of prevention of serious crimes within the operative-investigative activity under Chapter Nine of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act, as well as for the search of a person declared for national search, who has been convicted of a serious crime of imprisonment with an effective sentence, the execution of which has not been postponed under Article 66 (1) of the Criminal Code and the sentence has not been executed, or which has fallen or may fall into a situation that endangers his life or health. The data under Item 6 of Paragraph (1) shall be also stored for carrying out operations for search and rescue of persons in the cases covered by Article 38 (3) of the Disaster Protection Act. The data under Item 6 of Paragraph (1) shall also be retained for the needs of compelled compliance with mandatory isolation and hospital treatment of persons under Article 61 of the Health Act who have refused or fail to comply with mandatory isolation and treatment.

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(3) Other data, including the data disclosing the content of the communications cannot be stored according to this procedure.

(4) (Amended, SG No. 17/2019) The data under Paragraph 1 shall be processed and stored in accordance with the requirements for personal data protection.

**Article 251c.** (New, SG No. 24/2015, effective 31.03.2015) (1) The following persons and entities shall have the right to request information query about the data under Article 251b, Paragraph 1 when the data is needed for implementation of their powers:

1. the specialized directorates, the territorial directorates and the independent territorial departments of the State Agency for National Security;
2. Chief Directorate "National Police", Chief Directorate "Combating Organized Crime" and its territorial units, Chief Directorate "Border Police" and its territorial units, Directorate "Internal Security", the Sofia (Capital City) Directorate of the Interior and the regional directorates of the Ministry of Interior;
3. (amended, SG No. 69/2020) "Military Intelligence Service" and "Military Police" services with the Minister of Defence;
4. (amended, SG No. 79/2015, effective 1.11.2015) the State Intelligence Agency;
5. (new, SG No. 7/2018) the directorate referred to in Article 16 (2) of the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act.

(2) (New, SG No. 97/2016, effective 6.12.2016, supplemented, SG No. 28/2020, effective 24.03.2020; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria as regards second sentence - SG No. 101/2020)

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In the cases covered by Article 38, Paragraph 3 of the Disaster Protection Act, the "Fire Safety and Population Protection" Chief Directorate at the Ministry of Interior and its territorial units shall be entitled to request that the data under Article 251b, Paragraph 1, Item 6 are consulted, where such data are necessary for the performance of their powers. In the cases covered under sentence three of Article 251b (2) herein, the National Police General Directorate, the Sofia Metropolitan Directorate of Interior and the regional directorates of the Ministry of Interior shall have the right to request

information about the data covered under Item 6 of Article 251b (1) herein where such data are needed for the exercise of the powers thereof.

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(3) (Renumbered from Paragraph 2, supplemented, SG No. 97/2016, effective 6.12.2016, SG No. 7/2018) In order to gain access to the data under Article 251b, Paragraph 1 or Paragraph 2, a reasoned written request shall be prepared by the relevant head of the bodies referred to in Paragraph 1 or by a person authorized thereby, and, applicable to the directorate referred to in Item 5 of Paragraph (1), the director of the directorate or a person empowered thereby, containing:

1. the legal grounds and purpose for which the access is needed;
2. the registration number of the file, under which the information query has to be made and data on the user, when known;
3. the data which must be reflected in the reply to the information query;
4. (amended, SG No. 20/2021) a reasonable period of time to cover the reference, necessary to achieve the objective;
5. the full and comprehensive statements of the facts and circumstances entailing the purpose under Article 251b, Paragraph 2;
6. the designated official whom the data is to be provided to.

(4) (Renumbered from Paragraph 3, supplemented, SG No. 97/2016, effective 6.12.2016) The bodies under Paragraph 1 and Paragraph 2 shall keep a special non-public register of the requests made.

**Article 251d.** (New, SG No. 24/2015, effective 31.03.2015) (1) The access to the data under Article 251b, Paragraph 1 shall be implemented after permission by the chairperson of the district court or by a judge authorized thereby at the whereabouts of the seat of the body that requested access, for which an order for provision of access to the data shall be issued.

(2) (New, SG No. 51/2020, amended, SG No. 32/2022, effective 28.07.2022) The access to the data referred to in Article 251b, Paragraph 1 and concerning the prevention, detection and investigation of crimes covered by Article 108a, Paragraphs 1 - 4, Paragraphs 6 and 7, Article 109, Paragraph 3, Article 110, Paragraph 1, sixth proposal, Article 110, Paragraph 2 of the Criminal Code, shall be implemented after permission by the chairperson of the Sofia City Court or by a judge authorised thereby, regarding which an order to provide access to the data shall be issued.

(3) (New, SG No. 103/2016, renumbered from Paragraph (2), supplemented, SG No. 51/2020) The permission referred to in Paragraph (1) and (2) shall be issued within up to 24 hours following receipt of a well-reasoned submission in writing, where the data referred to in Article 251b (1) is requested for crime prevention and detection under Article 108a, Paragraphs (1) through (4), Paragraphs (6) and (7), Article 109 (3), sixth proposal of Article 110 (1), Article 110 (2), Item 1 of Article 308 (3), and Article 320 (2) of the Criminal Code.

(4) (Renumbered from Paragraph (2), SG No. 103/2016, renumbered from Paragraph (3), supplemented, SG No. 51/2020, amended, SG No. 32/2022, effective 28.07.2022) The access to data under Article 251b (1) pertaining to a chairman of a regional court, to his/her ascendant, descendant, sibling, spouse or de facto cohabitee, shall be implemented after permission by the chairman of the relevant regional court, and in the cases under Paragraph (2) – by the chairman of the Appellate Court - Sofia.

(5) (New, SG No. 97/2016, effective 6.12.2016, renumbered from Paragraph (3), amended, SG No. 103/2016, supplemented, SG No. 28/2020, effective 24.03.2020, renumbered from Paragraph (4), amended, SG No. 51/2020; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria in regards to the words "the cases referred to in sentence three of Article 251b (2)" - SG No. 101/2020)

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Paragraph 4 shall not apply to the cases covered by Article 38, Paragraph 3 of the Disaster Protection Act and in the cases referred to in sentence three of Article 251b (2) herein.

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(6) (Renumbered from Paragraph 3, SG No. 97/2016, effective 6.12.2016, renumbered from Paragraph (4), amended, SG No. 103/2016, renumbered from Paragraph (5), amended, SG No. 51/2020) The order under Paragraphs 1, 2 and 4 shall be properly reasoned and shall obligatorily contain:

1. the data that must be reflected in the reply to the information query;
2. (amended, SG No. 20/2021) a reasonable period of time to cover the reference, necessary to achieve the objective;
3. the designated official whom the data is to be provided to;
4. the name, position and signature of the judge.

(7) (Renumbered from Paragraph 4, SG No. 97/2016, effective 6.12.2016, renumbered from Paragraph (5), SG No. 103/2016, renumbered from Paragraph (6), supplemented, SG No. 51/2020, amended, SG No. 32/2022, effective 28.07.2022) A special non-public register shall be kept for the reasoned permissions or refusals decreed at the respective regional courts and at the Sofia City Court.

(8) (Renumbered from Paragraph 5, SG No. 97/2016, effective 6.12.2016, renumbered from Paragraph (6), SG No. 103/2016, renumbered from Paragraph (7), SG No. 51/2020) For the needs of the penal procedure, the data under Article 251b, Paragraph 1 shall be provided to the court and to the bodies of the pre-judicial procedure under the terms and according to the procedure of the Criminal Procedure Code.

**Article 251d<sup>1</sup>.** (New, SG No. 103/2016) (1) (Supplemented, SG No. 28/2020, effective 24.03.2020; declared unconstitutional by the Constitutional Court of the Republic of Bulgaria as regards second sentence - SG No. 101/2020, supplemented, SG No. 20/2021)

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In cases of imminent danger of a crime to be committed under Paragraph 1 – 4, Paragraphs 6 and 7 of Article 108a, Paragraph 3 of Article 109, proposal six of Paragraph 1 of Article 110, Paragraph 2 of Article 110, Item 1 of Paragraph 3 of Article 308 and Paragraph 2 of Article 320 of the Criminal Code, the undertakings providing public electronic communication networks and/or services shall provide immediate access to the data under Article 251b (1) on the basis of a request of the relevant head of the authorities under Article 251c (1) or (2). In the cases referred to in sentence three of Article 251b, Paragraph (2) herein, undertakings providing public electronic communication networks and/or services shall provide immediate access to the data referred to in Item 6 of Article 251b, Paragraph (1) herein on the basis of a request by the relevant head of the entities referred to in sentence two of Article 251c, Paragraph (2) herein.

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(2) The request referred to in Paragraph (1) shall mandatorily contain:

1. the legal basis for provision of access;
2. the data which must be entered in the information;
3. (amended, SG No. 20/2021) a reasonable period of time to cover the reference;
4. the designated official whom the data is to be provided to.

(3) (Supplemented, SG No. 28/2020, effective 24.03.2020, amended, SG No. 51/2020, declared unconstitutional by the Constitutional Court of the Republic of Bulgaria, concerning the words "and sentence two of Paragraph 2 of Article 251c" – SG No. 101/2020, amended, SG No. 20/2021) The heads of the authorities under Article 251c (1) or (2) shall immediately notify the body under Article 251 (1), (2) or (4) for the realized access, shall apply the request and shall state the reasons justifying the necessity of immediate access to the data under Article 251b (1) indicating thereby fully and exhaustively the facts and circumstances, determining the existence of an immediate danger of committing a crime under Paragraph (1)

(4) (Supplemented, SG No. 28/2020, effective 24.03.2020, amended, SG No. 51/2020, declared unconstitutional by the Constitutional Court of the Republic of Bulgaria, concerning the words "and sentence two of Paragraph 2 of Article 251c" - SG No. 101/2020, amended, SG No. 20/2021) The



data referred to in Article 251b (1) provided under Paragraph (1) shall be destroyed immediately by the authorities referred to in Article 251c (1) or (2), if the body under Article 251d (1, 2) or (4) issues a refusal within 24 hours, of which the undertaking providing public electronic communication networks and/or services shall be immediately informed.

(5) (Amended, SG No. 51/2020) In the cases referred to in Paragraphs (1) through (3), the actions already carried out shall be validated with the order of the body under 251d (1), (2) or (4).

**Article 251e.** (New, SG No. 24/2015, effective 31.03.2015) (1) (Supplemented, SG No. 103/2016, amended, SG No. 51/2020) The undertakings providing public electronic communication networks and/or services shall be obligated to ensure 24-hours-a-day, 7-days-a-week opportunity for receiving the order under Article 251d, (1) and (2) and under Article 251h (2), and the request under Article 251d<sup>1</sup> (1).

(2) (Amended, SG No. 20/2021) The heads of the undertakings providing public electronic communications networks and/or services shall forward to the heads of the bodies under Article 251c (1) or (2) a list indicating therein:

1. (supplemented, SG No. 103/2016, amended, SG No. 51/2020) current address to receive the order under Article 251d (1) and (2) and Article 251h (2) and the request under Article 251d<sup>1</sup> (1);

2. (supplemented, SG No. 97/2016, effective 6.12.2016, SG No. 103/2016, amended, SG No. 51/2020, SG No. 20/2021) forename, patronymic, surname and position of the empowered officials, who shall receive the orders under Article 251d (1) and (2), and under Article 251h (2), and the request under Article 251d<sup>1</sup> (1), as well as their contact telephone numbers. In case of a change in the data, it shall be notified in writing within 24 hours and the lists of the heads of the bodies under Article 251c (1) or (2).

**Article 251f.** (New, SG No. 24/2015, effective 31.03.2015) (1) (Supplemented, SG No. 103/2016) The undertakings providing public electronic communication networks and/or services shall make an information query about the data under Article 251b, Paragraph (1) after receiving a reasoned order for access or a request under Article 251d<sup>1</sup>, Paragraph (1). Any order to provide access or a request under Article 251d<sup>1</sup>, Paragraph (1) as received shall be recorded in a special register which shall not be open to public inspection.

(2) (Amended, SG No. 97/2016, effective 6.12.2016, amended and supplemented, SG No. 103/2016, amended, SG No. 51/2020) The undertakings providing public electronic communication networks and/or services shall, within the shortest time limit possible but not later than 72 hours after the receipt by the undertaking of the order for access under Article 251d, Paragraph 1 and 2 and under Article 251h, Paragraph 2, send the data to the official under Article 251d, Paragraph 6, Item 3. The Minister of Interior and the Chairman of the State Agency for National Security or officials authorized thereby may specify a particular deadline within which the data is to be sent. In the cases referred to in Article 251d<sup>1</sup> (1), the data under Article 251b (1) shall be submitted immediately following receipt of the request for access by the undertaking.

(3) (New, SG No. 97/2016, effective 6.12.2016, amended, SG No. 103/2016, SG No. 51/2020) In the cases covered by Article 38, Paragraph 3 of the Disaster Protection Act, within the shortest possible time, but not later than two hours of the order for access under Article 251d, Paragraph 1 is received by the undertaking, undertakings providing public electronic communication networks and/or services shall send the data to the official specified under Article 251d, Paragraph 6, Item 3. The Minister of Interior or an official authorised thereby in writing may set a shorter time-period, within which the data shall be sent, where there is a serious risk to the life or health of the individual.

(4) (Renumbered from Paragraph 3, SG No. 97/2016, effective 6.12.2016) An information query about the data under Article 251b, Paragraph 1 at the undertakings providing public electronic communication networks and/or services, can be made only by officials authorized in writing by the respective head of the undertaking.

(5) (Renumbered from Paragraph 4, SG No. 97/2016, effective 6.12.2016, supplemented, SG No. 103/2016) After its preparation, the information shall be signed by the head of the respective undertaking providing public electronic communication networks and/or services or by an official authorized in writing thereby. The information shall be recorded in a special register and shall be

transmitted to the official where to the data are to be made available as designated in the order or the request under Article 251d<sup>1</sup>, Paragraph (1).

(6) (Renumbered from Paragraph 5, amended, SG No. 97/2016, effective 6.12.2016, supplemented, SG No. 103/2016, amended, SG No. 85/2017) If there is an opportunity to do so, the order of the judge or the request under Article 251d<sup>1</sup>, Paragraph (1) and the information under Paragraph (5) shall be signed with an advanced electronic signature, advanced electronic signature based on a qualified certificate for electronic signatures, or qualified electronic signature pursuant to the requirements of Regulation (EU) No. 910/2014 and of the Electronic Document and Electronic Trust Services Act.

(7) (Renumbered from Paragraph 6, SG No. 97/2016, effective 6.12.2016) The data to which access was gained and which was stored can be preserved by the undertaking which provided it, for a time period not longer than three months from the date of provision to the body which made the request for access, upon its request and after permission issued according to the procedure of Article 251d.

**Article 251g.** (New, SG No. 24/2015, effective 31.03.2015) (1) The undertakings providing public electronic communication networks and/or service shall be obligated to destroy the data after the expiration of the time limits under Article 251b, Paragraphs 1 and 4 and to provide to the Personal Data Protection Commission a record of the data destroyed during the previous month by the 5th of the present month. The Personal Data Protection Commission shall establish and keep a register of the records provided, which shall not be public in nature. The Personal Data Protection Commission shall perform checks of the legitimacy of the storage and destruction of the data by the undertakings according to the procedure of Article 261a.

(2) (Amended and supplemented, SG No. 97/2016, effective 6.12.2016, amended, SG No. 103/2016, SG No. 51/2020) The information under Article 251f, Paragraph 1 or Paragraph (2), which is not used in initiating the pre-judicial procedure, regardless of whether it is classified information or not, shall be destroyed within a 3-month time limit from the date of its receipt, by a 3-member commission consisting of members designated by the respective head of the bodies under Article 251b, Paragraph 1, regarding which a record shall be prepared. The record shall be sent immediately to the chairman of the respective court that granted the permission and shall be registered into the register under Article 251d, Paragraph 7.

(3) (New, SG No. 103/2016, amended, SG No. 51/2020) In the cases referred to in Article 251d<sup>1</sup>, Paragraph (4), the information under Article 251f, Paragraph (1), regardless of whether it is classified information, shall be immediately destroyed by a 3-member commission consisting of members designated by the heads of the authorities under Article 251c (1), whereupon a record shall be drawn up. The record shall be sent immediately to the chairman of the respective court and shall be registered into the register under Article 251d, Paragraph 7.

**Article 251h.** (New, SG No. 24/2015, effective 31.03.2015) (1) The data under Article 251b, Paragraph 1 can be provided also at the request of a competent body of another country when this is provided for in an international treaty which is in effect in the Republic of Bulgaria.

(2) The access to the data under Article 251b, Paragraph 1 shall be implemented upon a received request by a head of a chief directorate or a specialized directorate under Article 251b, Paragraph 1, Items 1 and 2, after written permission by the chairman of the Sofia City Court or by a judge authorized thereby, regarding which an order to providing access to the data shall be issued. A special non-public register shall be kept at the Sofia City Court for the permissions or refusals decreed.

(3) The competent body of the other country shall be notified according to the procedure provided for in the international treaty of the result of the information generated about the data under Article 251b, Paragraph 1.

**Article 251i.** (New, SG No. 24/2015, effective 31.03.2015) (1) The data under Article 251b, Paragraph 1, Item 1 shall be:

1. (amended, SG No. 20/2021) in case of voice communication service – the telephone number of the caller and data for identification of the end user;
2. (amended, SG No. 20/2021) in case of internet access, internet electronic mail and internet telephony – an identifier assigned to the end user, the user identifier and a telephone number

determined for each communication entering the public telephone network, data for identification of the end user, for whom an IP address, an identifier of the end user or a telephone number at the time of the connection are determined.

(2) The data under Item 2 of Article 251b (1) shall be:

1. (amended, SG No. 20/2021) in the case of a voice communication service – dialled number (called telephone number) and in the cases of supplementary services such as re-routing or transfer of the call, a number or numbers to which the call is routed and data for identification of the end user;
2. (amended, SG No. 20/2021) in the case of internet electronic mail and internet telephony – an identifier of the end user or a telephone number of the recipient(s) of an internet telephony call, identification data of the end user and an identifier of the recipient for whom the communication is intended.

(3) The data under Item 3 of Article 251b (1) shall be:

1. (amended, SG No. 20/2021) for voice communication service: date and time of the beginning and end of the connection;
2. (amended, SG No. 20/2021) in the case of internet access, internet electronic mail and internet telephony – the date and time of the log-in and log-off the internet access service, based on a certain time zone, together with the IP address, be it dynamic or static, determined for the connection by the internet access service provider and, the identifier of the end user, the date and time of the log-in and log-off the internet electronic mail service or the internet telephony service, based on a certain time zone.

(4) The data under Item 4 of Article 251b (1) shall be:

1. (amended, SG No. 20/2021) the type of voice communication service used;
2. concerning Internet electronic mail or Internet telephony: the Internet service used.

(5) The data under Item 5 of Article 251b (1) shall be:

1. (amended, SG No. 20/2021) in the case of fixed voice communication service – for the calling and called telephone number;
2. (amended, SG No. 20/2021) in the case of a voice communication service, provided via a mobile terrestrial network – data about the calling and the called telephone number; the International identifier of the calling mobile end user – contract party under Article 227 (IMSI); the International identifier of the called mobile end user – contract party under Article 227 (IMSI); the International Mobile Equipment Identity (IMEI) of the calling mobile electronic communications terminal equipment; the International Mobile Equipment Identity (IMEI) of the called mobile electronic communication terminal equipment; in the case of prepaid services – the date and time of the initial activation of the service and a location label – an identifier of the cell from which the service is activated and of the end user identification;
3. in the case of internet access, internet electronic mail and internet telephony – the calling telephone number for dial-up access, digital subscriber line (DSL) or other end point of the originator of the connection.

(6) The data under Item 6 of Article 251b (1) shall be: administrative addresses of the cells of the mobile terrestrial electronic communications network from which a call is generated or in which a call is terminated.

**Article 252.** (1) Traffic data shall be processed by officials designated by the undertakings providing public electronic communications services who shall be responsible for:

1. management of traffic data and of data referred to in Item 2 of Article 248 (2) herein;
2. (amended, SG No. 20/2021) end-user inquiries;
3. fraud detection;
4. marketing electronic communications services;
5. providing value added services requiring further processing of traffic data or of location data other than the traffic data necessary for conveyance of the communication or for billing of the communication.

(2) The access of officials shall be restricted to the data necessary for the relevant activity.

**Article 253.** (1) (Amended, SG No. 20/2021) After prior written consent the undertakings providing electronic communications services may process location data on the end-user terminal equipment, provided that:

1. the data are made anonymous, or
2. the data are necessary for the purposes and duration of provision of value added services requiring further processing of traffic data or location data other than the traffic data necessary for conveyance of the communication or for billing of the communication.

(2) (Amended, SG No. 20/2021) The undertakings under Paragraph (1) shall inform in advance the end-users thereof of the type of location data processed under Paragraph (1), of the duration and purposes for such processing, and of the possibility to transmit the data to a third party in connection with the provision of value added services requiring further processing of traffic data or location data other than the traffic data necessary for conveyance of the communication or for billing of thereof.

(3) (Amended, SG No. 20/2021) (1) The undertakings under Paragraph (1) shall ensure free of charge the possibility to end-users to:

1. withdraw at any time their prior consent given to processing of location data thereof;
2. temporarily refuse the processing of location data thereof for each connection to the electronic communications network or for each conveyed communication.

**Article 254.** Location data shall be processed by officials designated by the undertakings referred to in Article 252 (1) herein or by persons empowered by a third party providing value added services and must be restricted to what is necessary for the provision of value added services.

**Article 255.** (1) (Supplemented, SG No. 17/2009, amended, SG No. 105/2011, effected 29.12.2011, SG No. 20/2021) The undertakings providing number-based interpersonal communication services and ensuring the possibility to make outgoing calls to numbers from the National Numbering Plan, shall process and provide at their own expense information on the user location in case of emergency calls, including where no prior consent has been obtained for such processing or there is a refusal under Article 253 (3). The information shall be provided only to the relevant call centres receiving emergency calls to the Single European Number "112" as soon as the call reaches the said call centres.

(2) (New, SG No. 20/2021) The undertakings under Paragraph 1 shall ensure the user access to the emergency response services through emergency calls to the Single European Emergency Number "112". the National Emergency Call System Employing the Single European Number "112" shall direct the information to the most appropriate emergency call center.

(3) (Supplemented, SG No. 17/2009, renumbered from Paragraph (2), amended, SG No. 20/2021) The undertakings under Paragraph (1) herein shall ensure, for their own account, the hardware and software required for routing and transmission of calls to the emergency call centers.

(3) (Amended, SG No. 17/2009, renumbered from Paragraph (3), amended, SG No. 20/2021) The terms and conditions for providing by the undertakings under Paragraph (1) of information on the consumer location and data on the end user – contract party under Article 227, in case of emergency calls shall be determined by rules, adopted by the Commission.

**Article 256.** (1) The undertakings providing public electronic communications services may furthermore collect, process and use the data under covered under Article 248 (2) herein for:

1. detecting, locating and eliminating defects and software errors in the electronic communications networks;
2. detection and cessation of unauthorized use of electronic communications networks and facilities, where there is reason to consider that such actions are performed and this has been claimed in writing by the affected party or by a competent authority;
3. (amended, SG No. 20/2021) detecting and tracing of nuisance calls, upon a request by the affected end-user requesting measures to be taken by the undertaking providing the service.

(2) Upon taking the actions covered under Paragraph (1), the undertakings providing public electronic communications services shall inform the persons concerned within the shortest possible period of time, unless this will prevent the achievement of the objectives of this provision.

(3) The data collected according to the procedure established by this Article shall be used only for the purposes indicated in Paragraph (1).

**Article 257.** (1) (Amended and supplemented, SG No. 29/2015, amended, SG No. 20/2021) The Commission may impose obligations on undertakings offering voice messaging services to provide the functions of the electronic communications network: "tone dialling", "caller line identification" and "connected line identification", where the caller number is presented to the calling one before making the call, in compliance with current legislation in the field of personal data protection and privacy. Where technically possible, the undertaking shall provide data and signals to facilitate caller identification and tone dialling when making international calls.

(2) (Amended, SG No. 20/2021) The undertakings under Paragraph (1), which support the "calling line identification" function of the electronic communications network, shall offer, free of charge, the service of "presentation of calling line identification," giving end-users the opportunity, free of charge, to activate or deactivate the service of "elimination of calling line identification" via a simple means for each particular call or permanently for their respective line.

(3) (Amended, SG No. 20/2021) The undertakings Paragraph (1), which support the "connected line identification" function of the electronic communications network, shall offer, free of charge, the service of "presentation of connected line identification," giving end-users the opportunity, free of charge, to activate or deactivate the service of "elimination of connected line identification" via a simple means for each particular call or permanently for their respective line.

(4) (Amended, SG No. 20/2021) The undertakings under Paragraph (1), which support the "calling line identification" function of the electronic communications network, shall offer the called end-user the opportunity, free of charge, via a simple means, to reject incoming calls where the service of "elimination of calling line identification" has been activated on the part of the calling end-user.

(5) Where providing emergency call services, as well as in cases of calls to the services responsible for security, defence and internal order, the undertakings referred to in Paragraph (1) shall guarantee that the service of "elimination of calling line identification" function cannot be activated.

(6) (Amended, SG No. 20/2021) The undertakings under Paragraph (1), which support the "calling line identification" function of the electronic communications network, shall offer the end-users thereof, free of charge, the service of "stopping automatic call forwarding to the terminal equipment of the said end-users".

(7) Where a technical possibility under Paragraph (1) is not available, the Commission, jointly with the undertakings referred to in Paragraph (1) and conforming to the investment policy of the said undertakings, shall establish a procedure and a time limit for making operational these functions of the electronic communications network.

(8) (Repealed, SG No. 105/2011, effective 29.12.2011).

(9) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings under Paragraph (1) shall provide their networks for establishment of calls, transmission of communications or electronic mail intended for direct marketing and advertising only after the explicit written consent of the end-user – contract party under Article 227.

(10) The terms and procedure for provision and use of the services referred to in Paragraphs (1), (4) and (6) shall be established by rules adopted by decision of the Commission, which shall be promulgated in the Official Section of the State Gazette.

(11) (New, SG No. 20/2021) The Commission may impose an obligation on the undertakings providing internet access to provide free e-mail forwarding or e-mail access after termination of a contract with an internet access service provider, where technically feasible. This option shall allow end-users who terminate their contract with an internet access service provider, on request and free of charge, to have access to their messages received at e-mail addresses including the trade name or mark of the previous provider, for a period determined by the Commission to be necessary and proportionate or, to transfer messages sent to such addresses during the specified period to a new e-mail address specified by the end-user.

**Article 258.** (1) (Amended, SG No. 20/2021) The undertakings providing number-based electronic communications services, which prepare and publish telephone directories in a printed or

electronic form, shall list in the telephone directories, free of charge, the name or business name, address and telephone number of the end-user – contract party under Article 227. The telephone directory may also include additional data requested by the end-user – contract party under Article 227.

(2) (Amended, SG No. 17/2009, SG No. 20/2021) The undertakings under Paragraph (1) shall be obligated to inform the end-users – contract party under Article 227, in advance and free of charge, of the purposes of the telephone directory in which their data are to be listed, as well as of any other opportunity to use the said data via search functions, in the case of electronic telephone directories, enabling users to find a name or business name and an address only on the basis of a telephone number.

(3) (Amended, SG No. 20/2021) The undertakings under Paragraph (1) shall be obliged to provide access to a respective telephone number only at fully and accurately entered minimum volume of data, taking the appropriate technical and organizational measures to prevent copying from the directories in electronic form.

(4) (Amended, SG No. 20/2021) An end-user – contract party under Article 227 shall have the right free of charge to:

1. apply for the listing of all or part of the data thereof in a telephone directory;
2. request verification, a correction or a deletion of all or part of the data thereon in a telephone directory; the data shall be deleted or modified upon publication of a new telephone directory or upon updating of an existing telephone directory.

(5) (Amended, SG No. 20/2021) An end-user – contract party under Article 227 may request that additional information be included in the telephone directory concerning other persons using jointly the local loop, provided that the said persons have given their prior written consent to such inclusion.

(6) (Amended, SG No. 20/2021) An end-user – contract party under Article 227 must be informed of the possibilities to search the electronic telephone directories, enabling users to obtain information about the name and address only on the basis of the telephone number.

(7) (New, SG No. 17/2009, amended, SG No. 20/2021) Undertakings providing number-based interpersonal communication services that provide numbers from a numbering plan shall fulfil all reasonable requests for the provision of the necessary information relating to preparing telephone directories and providing enquiry services in a coherent format under fair, objective, cost-oriented and equal conditions. The information shall be provided in the presence of the explicit consent of the end users – contract party under Article 227.

(8) (Renumbered from Paragraph (7), SG No. 17/2009) The terms and the procedure for the publication of telephone directories, including the handling of the databases, the transfer and use thereof, shall be established by an ordinance of the Minister of Transport, Information Technology and Communications, which shall be promulgated in the State Gazette.

**Article 259.** (1) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings providing number-based communication services shall ensure access to enquiry services in accordance with the data published in a telephone directory.

(2) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) For the purpose of enquiry service provision, the Commission may impose under Article 160 obligations on the undertakings that control the access to end-users. The said obligations shall be objective, equitable, non-discriminatory and transparent.

(3) (New, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) The Commission shall not impose any regulatory restrictions that prevent end-users from accessing directly the enquiry services in other Member States of the European Union by voice call or Short Message Service and the Commission shall take measures to ensure such access under Article 138c.

(4) (Renumbered from Paragraph (2), SG No. 105/2011, effective 29.12.2011) The undertakings referred to in Paragraph (1) shall provide information about the relevant telephone number solely where a minimum amount of data has been provided accurately.

(5) (Amended, SG No. 17/2009, renumbered from Paragraph (3), SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The terms and conditions for provision of enquiry services shall be established by the ordinance under Article 258 (8) herein.

**Article 260.** (1) (Amended, SG No. 20/2021) The end users – contract party under Article 227 shall have the right not to receive itemized bills after an express request.

(2) (Amended, SG No. 17/2009, supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The undertakings providing voice services shall provide the persons under Paragraph (1), free of charge, with an itemized bill for the services used together with a tax invoice and, shall provide, free of charge, access to information in an electronic form regarding the monthly bills for the services used. The itemized bill shall be provided within one month from the date of issuing thereof.

(3) An itemized bill shall contain at least the following information:

1. all types of services used by the subscriber within the payment period;
  2. number of services used;
  3. total price per type of service used;
  4. total amount of the bill;
  5. amount of taxes charged on the bill, expressed both as per cent of the amount of the bill and as an absolute value;
  6. (amended, SG No. 20/2021) amount of the deductions that may be due to an end-user – contract party under Article 227, conforming to the manner of use of the services agreed between the end-user and the undertaking providing the services;
  7. total amount payable;
  8. time limit for payment;
  9. possible means of remote payment of the bill, with the data necessary for this;
  10. identification data on the undertaking providing the services;
  11. addresses, telephone numbers and other contact details of the undertaking providing the services.
- (4) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) The undertakings referred to in Paragraph (2) shall provide, upon request, an itemized bill for the voice services used which shall contain information at least on:

1. (amended, SG No. 105/2011, effective 29.12.2011) the type of the service used for each call established;
  2. the price of each call established;
  3. the date, time and duration of each call established;
  4. (new, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) the number of the calling and called end-user.
- (5) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) The undertakings under Paragraph (2) shall provide the opportunity for receipt of the detailed invoices on paper or in electronic form.

**Article 260a.** (New, SG No. 11/2014, effective 8.04.2014) (1) (Amended, SG No. 20/2021) The undertakings providing public electronic communications services through electronic communications networks other than those under Article 260, shall provide monthly and free of charge to the end-users – contract party under Article 227 detailed written information about the services used, along with a primary accounting document.

(2) The written information shall contain at least the following:

1. (amended, SG No. 20/2021) name/company name of the end-user – contract party under Article 227 herein;
2. (amended, SG No. 20/2021) type and number of the electronic communications services used;
3. name of the services or service packages provided;
4. accounting period of the service used;
5. total amount due, which shall include the amount due for:
  - a) Each service when it is not used bundled in a packet of services;
  - b) Packet of services;

- c) Each service used above the packet of services;
- d) Each additional service purchased outside the packet or the services;
- 6. (amended, SG No. 20/2021) amount of the deductions that may be due to an end-user – contract party under Article 227, conforming to the manner of use of the services agreed between the end-user and the undertaking providing the services;
- 7. Total amount due on the account;
- 8. amount of taxes charged on the bill, expressed both as per cent of the amount of the bill and as an absolute value;
- 9. time limit for payment;
- 10. Identification data of the undertaking providing the service, including address and phone.

(3) (Amended, SG No. 20/2021) The undertakings under Paragraph (1) shall provide the opportunity for receipt of written information on paper or in electronic form.

(4) (Amended, SG No. 20/2021) The written information under Paragraph (2) shall be stored by the undertakings under Paragraph (1) within the time limits for storing of the primary accounting document to which such information has been provided.

**Article 261.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) The establishment of calls, messages or electronic mail with or without human intervention for the purposes of direct marketing and advertising shall be allowed only in respect of consumers who have given their prior consent. The consent may be withdrawn at any time.

(2) (Amended, SG No. 105/2011, effective 29.12.2011) Any person who or which, in the context of a commercial transaction for the provision of products or services, has obtained data through which electronic contact can be established with the consumer, may use the said data for the dispatch of a marketing message and advertising for its own similar products or services provided that the said person gives each consumer the opportunity, free of charge and in an easy manner:

- 1. to object at the time of conclusion of the transaction;
- 2. to refuse to receive such communications in future in case the consumer has not done so at the time of conclusion of the transaction.

(3) (Repealed, SG No. 105/2011, effective 29.12.2011).

(4) (Amended, SG No. 105/2011, effective 29.12.2011) The person referred to in Paragraph (2) shall be obligated to comply with each refusal to receive communications for marketing purposes.

(5) (Amended, SG No. 105/2011, effective 29.12.2011) Sending communications for marketing and advertising purposes shall be prohibited even where the requirements under Paragraphs (1) to (3) are fulfilled, if:

- 1. the party sending such communications cannot be identified, or
- 2. the communication does not include a valid address whereto the recipient may send a request that such communications cease, or
- 3. the communication does not satisfy the requirements of Items 1 to 4 of Article 5 (3) of the Electronic Commerce Act, or
- 4. the communication encourages recipients to visit websites which do not satisfy the requirements of Items 1 to 4 of Article 5 (3) of the Electronic Commerce Act.

**Article 261a.** (New, SG No. 17/2010, effective 10.05.2010) (1) (Amended, SG No. 24/2015, effective 31.03.2015) The Commission for Personal Data Protection shall be a supervisory authority regarding the security of the data stored according to Article 251b (1) herein.

(2) (Amended, SG No. 24/2015, effective 31.03.2015) In its capacity as supervisory authority, the Commission for Personal Data Protection shall exercise supervision over the activity of the undertakings providing public electronic communications networks and/or services so as to ensure that the said undertakings respect the following rules in the retention of the data covered under Article 251b (1) herein for guaranteeing the protection and security of the said data:

- 1. the retained data shall be of the same quality and subject to the same security and protection as those data on the network;



2. ensuring appropriate technical and organizational measures to protect the data against accidental or unlawful destruction, accidental loss or alteration, or unauthorized or unlawful storage, processing, access or disclosure;

3. ensuring appropriate technical and organisational measures to ensure that the data can be accessed by specially authorized personnel only;

4. the data, except those that have been made available to the competent authorities and have been preserved thereby, shall be destroyed at the end of the period of retention, except in the cases expressly provided for by the law.

(3) For implementation of the activity thereof under Paragraph (2), the Commission for Personal Data Protection shall have the right to:

1. acting within the competence thereof, require information from the undertakings providing public electronic communications networks and/or services;

2. issue binding instructions, which shall be subject to immediate execution.

(4) Annually, not later than the 31st day of March, the undertakings providing public electronic communications networks and/or services shall provide the Commission for Personal Data Protection, in its capacity as supervisory authority, with statistical information on:

1. (amended, SG No. 24/2015, effective 31.03.2015, SG No. 97/2016, effective 6.12.2016, SG No. 103/2016, SG No. 51/2020) the cases in which data have been provided to the competent authorities under Article 251c (1) and (2) and Article 251d (8) herein;

2. the time elapsed between the initial date on which the data were retained and the date on which the competent authorities requested the transmission of the data;

3. the cases where requests for data could not be met.

(5) Annually, the Commission for Personal Data Protection shall provide the National Assembly and the European Commission with the summarized information referred to in Paragraph (4) within two months after receipt of the said information.

(6) The summarized statistical information referred to in Paragraphs (4) and (5) shall not contain personal data.

**Article 261b.** (New, SG No. 17/2010, effective 10.05.2010) (1) (Amended, SG No. 24/2015, effective 31.03.2015) The National Assembly, acting through a committee designated by the Rules of Organization and Procedure thereof, shall exercise parliamentary oversight and monitoring of the procedures for permission and implementation of access to the data covered under Article 251b (1) herein, as well as for protection of citizens' rights and freedoms against legally non-conforming access to any such data.

(2) For implementation of the activity thereof, the committee referred to in Paragraph (1) shall have the right:

1. (amended, SG No. 24/2015, effective 31.03.2015, supplemented, SG No. 97/2016, effective 6.12.2016) to act within the competence thereof, to require information from the authorities covered under Article 251c (1) and (2) herein, the undertakings providing public electronic communications networks and/or services, and the Commission for Personal Data Protection;

2. (amended, SG No. 24/2015, effective 31.03.2015) to check the procedure and manner for retention of the data covered under Article 251b (1) herein, the requests and the orders, as well as the procedure for destruction of the data covered under Article 251b (1) and Article 251g herein;

3. (amended, SG No. 24/2015, effective 31.03.2015, supplemented, SG No. 97/2016, effective 6.12.2016) to access to the premises of the authorities covered under Article 251c (1) and (2) herein and the undertakings providing public electronic communications networks and/or services;

4. (amended, SG No. 24/2015, effective 31.03.2015, SG No. 20/2021) to prepare annual reports on the checks conducted and to give instructions on improvement of the procedures for storing and processing of the data under Article 251b (1) herein.

(3) (Amended, SG No. 24/2015, effective 31.03.2015, SG No. 79/2015, effective 1.11.2015) Annually, not later than the 31st day of March, the Ministry of Interior, the Ministry of Defence, the State Agency for National Security, the State Intelligence Agency and the Prosecutor General shall prepare summarized statistical information on the requests made, the court orders issued, the

information on the data covered under Article 251b (1) herein received and destroyed, and shall make the said statistical information available to the committee referred to in Paragraph (1).

(4) (Amended, SG No. 24/2015, effective 31.03.2015, supplemented, SG No. 97/2016, effective 6.12.2016) Upon ascertainment of any wrongful use, storage or destruction of the data covered under Article 251b (1) and (2) herein, the committee shall notify the competent prosecuting authorities, as well as the heads of the authorities referred to in Article 251c (1) herein and of the undertakings providing public electronic communications networks and/or services, of the violations committed. The heads of the said authorities and undertakings shall be obligated to inform the committee in due time of the measures taken to redress the violations committed.

(5) (Amended, SG No. 24/2015, effective 31.03.2015) Acting ex officio, the committee referred to in Paragraph (1) shall inform the citizens where any data covered under Article 251b (1) herein in respect of them has been wrongfully requested or accessed.

(6) (Amended, SG No. 24/2015, effective 31.03.2015, SG No. 97/2016, effective 6.12.2016, SG No. 103/2016, SG No. 51/2020) Citizens shall not be informed where this will pose a risk to the attainment of the objectives referred to in Article 251b (2) or Article 251d (8) herein.

**Article 261c.** (New, SG No. 105/2011, effective 29.12.2011) (1) In case of a personal data breach, the undertaking providing public electronic communications services shall notify the Commission for Personal Data Protection within three days after detection of the breach.

(2) (Amended, SG No. 20/2021) Where the breach referred to in Paragraph (1) may adversely affect the personal data or privacy of a consumer or another person, the undertaking shall simultaneously notify also the person concerned of the breach detected.

(3) (Amended, SG No. 20/2021) A consumer or a person under Paragraph (2) may not be notified of the violation under Paragraph (1) where the undertaking has demonstrated to the Commission for Personal Data Protection that the said undertaking has undertaken the appropriate technological measures for protection of the security of the personal data subject of the breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.

(4) (Amended, SG No. 20/2021) In case the undertaking has failed to notify the consumer or the person under Paragraph (2) of a security breach of the personal data, the Commission for Personal Data Protection, having considered the likely adverse effects of the said breach, may require from the undertaking to notify the person concerned.

(5) (Amended, SG No. 20/2021) When notifying the consumer or the person, at least the following shall be described:

1. the nature of the consumer's personal data breach;
2. the contact points where more information can be obtained;
3. (amended, SG No. 20/2021) recommended measures to mitigate the possible adverse effects of the adverse consequences from the breach of security of the personal data of the consumer or the natural person.

(6) In addition to the information covered under Paragraph (5), the undertaking providing public electronic communications services shall furthermore indicate the following in the notification of a personal data breach to the Commission on Personal Data Protection:

1. description of the consequences of the personal data breach;
2. the measures proposed or taken by the undertaking to address the breach.

**Article 261d.** (New, SG No. 105/2011, effective 29.12.2011) (1) The Commission for Personal Data Protection shall issue instructions concerning the circumstances in which the undertakings providing public electronic communications services notify consumers of their personal data breaches, the format and the manner of such notification. The said instructions shall be promulgated in the Official Section of the State Gazette.

(2) The Commission for Personal Data Protection may audit whether the undertakings have complied with the notification obligation thereof under Paragraph (1) and to impose sanctions upon non-compliance.

(3) The Commission for Personal Data Protection may audit the technical and organisational measures taken by the undertakings providing public electronic communications networks and/or services and may issue recommendations about the best practices concerning the level of security which should be achieved.

**Article 261e.** (New, SG No. 105/2011, effective 29.12.2011) The undertakings shall maintain an inventory of consumers' personal data breaches. The facts surrounding the breach, the effect thereof and the remedial action taken shall be entered into the said inventory.

**Article 262.** (Amended, SG No. 17/2019) The processing of personal data in accordance with the procedure laid down in this section shall be supervised by the Commission for Personal Data Protection in accordance with Regulation (EU) 2016/679 and the Personal Data Protection Act.

**Chapter Sixteen**  
**RADIO EQUIPMENT AND TERMINAL EQUIPMENT, EQUIPMENT**  
**FOR DIGITAL INTERACTIVE TV SERVICES AND STANDARDS IN THE FIELD OF**  
**ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES**  
(Heading amended, SG No. 20/2021)

**Section I**

**Radio Equipment and Terminal Equipment and Equipment for Digital Interactive TV Services**  
(Heading amended, SG No. 20/2021)

**Article 263.** (Repealed, SG No. 103/2016).

**Article 264.** (Amended, SG No. 103/2016) Radio equipment shall be put into service and used, when properly installed, maintained and used for its intended purpose, and when complying with the requirements of the Technical Requirements Towards Products Act.

**Article 265.** (Amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 103/2016).

**Article 266.** (Amended, SG No. 103/2016) Additional requirements for putting into service and/or use of radio equipment may only be implemented for reasons related to:

1. effective and efficient use of the radio spectrum;
2. (amended, SG No. 20/2021) avoidance of harmful interference;
3. avoidance of electromagnetic disturbances;
4. protection of public health;
5. protection of national security.

**Article 267.** (Supplemented, SG No. 103/2016) (1) (Previous text of Article 267, SG No. 20/2021) The following radio equipment may not be put into service and used within the territory of the Republic of Bulgaria:

1. using radio frequency bands which are allocated for national security needs according to the National Radio Spectrum Allocation Plan;
2. using radio frequency bands which, according to the National Radio Spectrum Allocation Plan, are not allocated for the relevant type of radio services in the Republic of Bulgaria;
3. (amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) whose technical characteristics do not conform to the requirements of the rules referred to in Article 66a (3) herein;
4. (new, SG No. 103/2016, amended and supplement, SG No. 20/2021) whose technical characteristics do not correspond to those specified in the issued authorisations for use of radio frequency spectrum or a geostationary orbital position with the corresponding radio frequency spectrum.

(2) (New, SG No. 20/2021) Exceptions to Paragraph (1) shall be allowed in the cases of issuing provisional authorizations under Items 1 and 2 of Article 109 (1) if the required measures have been taken to avoid radio interference, disturbing electromagnetic influences and risk for the health or safety of the people or of the domestic animals, or for the possessions.

**Article 268.** (Repealed, SG No. 103/2016).

**Article 269.** (Supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 103/2016).

**Article 270.** (Repealed, SG No. 103/2016).

**Article 271.** (1) (Amended, SG No. 103/2016, SG No. 20/2021) Undertakings providing public electronic communications networks and/or services may not refuse the connection of terminal equipment to the public electronic communications network if such terminal equipment conforms to the requirements of the Technical Requirements Towards Products Act.

(2) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 103/2016, SG No. 20/2021) Where any terminal equipment, conforming to the requirements of the Technical Requirements Towards Products Act, cause damage to the electronic communications network, cause radio interference, or interfere with the functioning of the network or are not used for their intended purpose, the undertakings under Paragraph (1) shall have the right to disconnect the said equipment or to discontinue the provision of services through the said equipment, after performing all necessary technical inspections.

(3) (Repealed, SG No. 103/2016).

(4) (Amended, SG No. 103/2016) In cases referred to Paragraph 2, the undertakings shall immediately notify the Commission and the State Agency for Metrological and Technical Surveillance.

**Article 272.** (1) (Amended, SG No. 20/2021) Prior to offering their services, the undertakings providing public electronic communications networks and/or services shall publish on their website the technical specifications of the interfaces for connecting the terminal equipment to their networks, update the said specifications and send to the Commission information on the technical specifications of the interfaces

(2) (Amended, SG No. 103/2016, SG No. 20/2021) The technical characteristics under Paragraph (1) shall include all the data required to enable the users to access the public electronic communications networks and allowing manufacturers of terminal equipment to place them on the market.

**Article 273.** (Amended, SG No. 20/2021) The Commission shall monitor the fulfilment of the obligations referred to in Article 272 herein of the undertakings, shall publish on its web-site information on the types of interfaces of the undertakings on the Internet site thereof, and shall inform the European Commission of the types of interfaces for connection of terminal equipment, applied in the public electronic communications networks.

**Article 274.** (1) (Amended, SG No. 43/2008, SG No. 93/2009, SG No. 20/2021) Radio equipment and terminal equipment, including hardware accessories to the facilities or the terminal equipment for encryption of electronic communications and using a cryptographic key longer than 56 bits, shall be manufactured or imported after registration at the State Agency for National Security.

(2) Cryptographic equipment for protection of bank transactions, smart cards, scramblers for scrambling of television signals, mobile telephones without a built-in additional cryptographic module and cryptographic equipment used by representations or other organizations enjoying the status of diplomatic missions shall not be subject to registration under Paragraph (1).

(3) (Amended, SG No. 43/2008, SG No. 20/2021) A public register shall be kept for the radio equipment and the terminal equipment referred to in Paragraph (1). The register shall be published on the website of the State Agency for National Security.

(4) The register referred to in Paragraph (3) shall contain the following information:

1. identification data on the manufacturer or importer:

(a) in respect of natural persons: forename, patronymic and surname and permanent address;

(b) in respect of legal persons and sole trader natural persons: designation (business name), registered office, address of the place of management;

2. designation and type of the terminal equipment referred to in Paragraph (1).

(5) (New, SG No. 20/2021) The administrative bodies, the persons exercising public functions, the organisations providing public services and the judicial bodies, before which circumstances that are entered into the public register under Paragraph (3) should be proven or, which require data contained in the public register, shall accept the certification of the circumstances and the data by a written referral in the relevant request and/or application, notification, declaration or other document,

by which the relevant proceedings are initiated, without requiring from the applicants and/or the senders to present evidence of the circumstances and data entered into the register.

**Article 275.** (1) (Amended, SG No. 43/2008, SG No. 93/2009, SG No. 20/2021) For registration of radio equipment and terminal equipment under Article 274 herein, the manufacturer or importer shall submit an application to the State Agency for National Security.

(2) The application referred to in Paragraph (1) shall contain:

1. identification data on the manufacturer or the importer, as the case may be (the importer shall state data on the manufacturer as well):

(a) (amended, SG No. 20/2021) for natural persons: forename, patronymic and surname, Personal Identity Number and permanent address, and in respect of foreigners: Personal Number;

(b) (amended, SG No. 20/2021) in respect of legal persons and sole trader natural persons: designation (business name), registered office, address of the place of management and BULSTAT Unified Identification Code and, in respect of non-resident persons: the respective identification code;

2. full designation of the radio equipment or the electronic communications terminal equipment;

3. (amended, SG No. 20/2021) short description of the radio equipment or the terminal equipment, including the type of the cryptographic algorithms used and length of the cryptographic keys.

(3) The following shall be attached to the application referred to in Paragraph (1):

1. (amended, SG No. 20/2021) a copy of the technical documentation of the radio equipment or the terminal equipment;

2. a description of the cryptographic algorithms, if they are not publicly accessible, the methods of their initialization, operating modes and formats of input and output data.

(4) The application and the documents attached thereto shall be submitted in the Bulgarian language.

(5) In case of a deficiency of the application or of missing or deficient attachments thereto, the manufacturer or the importer, as the case may be, shall be notified in writing to cure the non-conformities. If the non-conformities are not cured within thirty days after the date of the notification, the procedure shall be terminated.

(6) (Amended, SG No. 43/2008, SG No. 93/2009) The Directorate for Technical Operations of the State Agency for National Security shall enter the radio equipment or the terminal equipment in the register referred to in Article 274 (3) herein within thirty days after the date of receipt of the application and the attachments thereto or after the non-conformities under Paragraph (5) are rectified.

**Article 276.** (1) (Amended, SG No. 43/2008, SG No. 93/2009, SG No. 20/2021) The State Agency for National Security shall issue a certificate of entry in the register under Article 274 (3) herein to the person who/which imports and manufactures radio equipment or terminal equipment under Article 274 (1) herein.

(2) (Amended, SG No. 43/2008) A fee to an amount fixed in the Rate Schedule of Fees Collected by the State Agency for National Security shall be paid for the issuance of the certificate referred to in Paragraph (1).

**Article 277.** (Supplemented, SG No. 109/2007, amended, SG No. 52/2013, effective 14.06.2013, SG No. 20/2021) Persons who/which make transactions with radio equipment and terminal equipment under Article 274 (1) herein shall provide written information to the State Agency for National Security regarding each transaction with such radio equipment or terminal equipment: name, type, serial number and identification data under Item 1 of Article 274 (4) herein on the person wherewith the transaction is effected, periodically at least once every three months.

**Article 278.** (1) (Previous text of Article 278, amended, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) Persons placing on the market consumer radio receivers, including for cars and digital TV consumer equipment, shall be obliged to ensure open application programming interfaces (APIs) in such equipment, meeting the minimum requirements of the relevant standards or specifications, or standardization documents.

(2) (New, SG No. 20/2021) Consumer equipment intended to receive digital TV signals which is offered for sale, hire or otherwise for use and which can decode digital TV signals must:

1. allow such signals to be decoded in accordance with a common European coding algorithm managed by a recognized European standardization organization;
  2. must display a freely transmitted signal on a screen when the equipment is rented and the tenant complies with the terms of the relevant lease agreement.
- (3) (New, SG No. 20/2021) Digital TV sets with an integrated screen with a visible diagonal of more than 30 cm, which are placed on the market for sale or rent, should be equipped with at least one open interface output (standardized one or conforming to a standard adopted by a recognized European standardization organization, or complying with an industry specification), which allows for the simple connection of peripherals and the transmission of all relevant elements of a digital TV signal, including information relating to interactive services and conditional access services.
- (4) (New, SG No. 20/2021) A car radio intended to be integrated into new vehicles of category M which are placed on the market for sale or hire must be capable of receiving and reproducing at least radio services provided by terrestrial digital broadcasting. A radio receiver that complies with the harmonized standards or parts of such standards, the references of which are published in the Official Journal of the European Union, shall be deemed to comply with this requirement.
- (5) (New, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (2), amended, SG No. 20/2021) Digital TV service providers shall provide their end-users with interoperable digital TV equipment so that, where technically possible, the digital TV equipment to be reused for the services of other digital TV service providers.
- (6) (New, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (3), amended, SG No. 20/2021) The persons referred to in Paragraph (1) and the providers referred to in Paragraph (5) shall cooperate in the provision of interoperable TV services for disabled consumers.
- (7) (New, SG No. 105/2011, effective 29.12.2011, renumbered from Paragraph (4), amended, SG No. 20/2021) The rights holders of application programs shall make available all the information required for the provision of digital interactive TV services supported by the said interfaces in a fully functional form to the undertakings referred to in Paragraph (5) against appropriate remuneration, on fair, reasonable and equal conditions.

**Article 279.** The requirements of this Section shall not apply to any electronic communications devices which are permanently installed on board vessels and aircraft and/or serve to coordinate traffic and ensure safety and/or in search and rescue, as well as such facilities installed and used on shore, serving the same purposes and recognized as such by the Minister of Transport, Information Technology and Communications.

**Article 279a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 20/2021).

## **Section II**

### **Standards in the Field of Electronic Communications Networks and Services (Heading amended, SG No. 20/2021)**

**Article 280.** (Amended, SG No. 17/2009) (1) (Supplemented, SG No.105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) Undertakings providing electronic communications networks and services and associated facilities and services may apply:

1. (amended, SG No. 103/2016, SG No. 20/2021) in respect of radio equipment and terminal equipment: the Bulgarian standards introducing the harmonized European standards, as published in the official bulletin of the Bulgarian Institute for Standardization, corresponding to the standards published in the Official Journal of the European Union;
  2. (amended, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) to ensure interoperability of electronic communications services and end-to-end connectivity, to facilitate provider switching, portability of numbers and identifiers, and to increase user freedom of choice: the standards or standardization deliverables recommended by the European Commission, published in the Official Journal of the European Union.
- (2) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) In the absence of published standards or standardization deliverables under Item 2 of Paragraph (1), standards or standardization deliverables of the European standardisation

organisations (the European Telecommunications Standards Institute, the European Committee for Standardization and the European Committee for Electrotechnical Standardization) may be implemented.

(3) (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) In the absence of published standards or standardization deliverables under Item 2 of Paragraph (1) and Paragraph (2), international standards or recommendations adopted by the International Telecommunication Union, the European Conference of Postal and Telecommunications Administrations, the International Organisation for Standardisation and the International Electrotechnical Commission shall be implemented.

(4) The European and international standards shall be introduced as Bulgarian standards and shall be implemented according to the provisions of the National Standardization Act.

(5) (Amended, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) The undertakings which provide electronic communications networks and services and associated facilities and services must apply the standards and standardization deliverables defined as mandatory in the Official Journal of the European Union.

(6) (New, SG No. 105/2011, effective 29.12.2011, amended and supplemented, SG No. 20/2021) In establishing the requirements to the undertakings which provide public electronic communications networks and services and associated facilities and services, the Commission shall take account of the applicable European and international standards and standardization deliverables.

(7) (New, SG No. 20/2021) Implementation of the standards and standardization deliverables under Item 2 of Paragraph (1) and Paragraphs (2) and (3) shall not impede the access in accordance with Chapter Ten, where access is possible.

(8) (New, SG No. 20/2021) The digital TV equipment meeting the harmonized standards or parts thereof, included in the list under Item 2 of Paragraph (1) shall be considered compliant to the requirements for interoperability under Article 230 (6) covered by such standards or parts thereof.

## **Chapter Seventeen**

**(Repealed, SG No. 21/2018, effective 9.03.2018)**

### **ESTABLISHMENT AND MAINTENANCE OF ELECTRONIC COMMUNICATIONS NETWORKS AND**

#### **INFRASTRUCTURE. RIGHT OF WAY**

**(Heading amended, SG No. 105/2011, effective 29.12.2011)**

#### **Section I**

**(Repealed, SG No. 21/2018, effective 9.03.2018)**

#### **Establishment of Electronic Communications Networks and Infrastructure**

**(Heading amended, SG No. 105/2011, effective 29.12.2011)**

**Article 281.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 82/2012, effective 26.11.2012, supplemented, SG No. 28/2013, repealed, SG No. 21/2018, effective 9.03.2018).

#### **Section II**

**(New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018)**

#### **Right of Way. Co-location and Shared Use**

**Article 281a.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 281b.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 281c.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 281d.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 282.** (Amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 283.** (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 82/2012, effective 26.11.2012, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 284.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 285.** (Amended, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 286.** (Supplemented, SG No. 17/2009, amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 66/2013, effective 26.07.2013, SG No. 98/2014, effective 28.11.2014, repealed, SG No. 21/2018, effective 9.03.2018).

### **Section III**

**(Renumbered from Section II, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018)**

#### **Servitudes**

**Article 287.** (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 288.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 289.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 290.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 291.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 292.** (Amended, SG No. 36/2008, SG No. 17/2009, SG No. 66/2013, effective 26.07.2013, SG No. 98/2014, effective 28.11.2014, SG No. 58/2017, effective 18.07.2017, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 293.** (Supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 294.** (Repealed, SG No. 21/2018, effective 9.03.2018).

### **Section IV**

**(Renumbered from Section III, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018)**

#### **Right of Use**

**Article 295.** (Supplemented, SG No. 17/2009, amended and supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 296.** (Amended, SG No. 17/2009, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 297.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 298.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 299.** (Repealed, SG No. 21/2018, effective 9.03.2018).

### **Chapter Eighteen**

#### **ENSURING ELECTRONIC COMMUNICATIONS IN DISASTERS, IN DECLARING MARTIAL LAW, STATE OF WAR OR STATE OF EMERGENCY**

**(Heading amended, SG No. 35/2009, effective 12.05.2009, SG No. 20/2021)**

**Article 300.** (1) (Repealed, SG No. 35/2009, effective 12.05.2009).

(2) (Amended, SG No. 50/2016, effective 1.07.2016, SG No. 20/2021, SG No. 15/2022, effective 22.02.2022) The terms and conditions for ensuring electronic communications upon declaring a state of martial law, a state of war or a state of emergency within the meaning of the Republic of Bulgaria Defence and Armed Forces Act shall be established by the Council of Ministers on proposal by the Minister of e-Government in coordination with the relevant competent authorities.

**Article 301.** (1) (Amended, SG No. 35/2009, effective 12.05.2009, SG No. 20/2021) The undertakings providing public electronic communications networks and services shall ensure the possibility to implement electronic communications in disasters within the meaning of the Disaster



Protection Act and, upon declaration of a state of martial law, a state of war or a state of emergency – within the meaning of the Republic of Bulgaria Defence and Armed Forces Act.

(2) To ensure national security, the undertakings providing public electronic communications networks and/or services, in case of necessity, shall ensure the competent authorities access to the network and/or the services provided, as well as a possibility to use electronic communications over the network free of charge in case of an imminent danger of a threat to national security.

(3) (Supplemented, SG No. 43/2008, amended, SG No. 69/2008, SG No. 17/2009, supplemented, SG No. 93/2009, amended, SG No. 70/2013, effective 9.08.2013, SG No. 53/2014, SG No. 61/2015, effective 1.11.2015, supplemented, SG No. 103/2016) To implement the activities referred to in Article 14 (2), item 8 and Article 89 (1) of the Ministry of Interior Act, in Item 5 and 6 of Article 42 (1) of the State Agency for National Security Act, in Articles 5 and 7 of the Military Police Act, and in Articles 20 - 22 of the National Service for Protection Act, as well as in an imminent threat to national security, the competent authorities of the Ministry of Interior, the State Agency for National Security, the Military Police and the National Service for Protection may block, by technical means, the use of electronic communications services.

**Article 302.** (1) (Amended, SG No. 20/2021) Upon declaring martial law, a state of war or a state of emergency within the meaning of the Republic of Bulgaria Defence and Armed Forces Act, the Commission shall, by decision of a competent body, temporarily suspend the issued authorisations for use of radio frequency spectrum.

(2) The Commission shall prohibit the use of radio equipment and radio spectrum for civilian needs upon a decision by the competent authority in the cases referred to in Paragraph (1).

(3) (New, SG No. 20/2021) The radio frequency spectrum allocation in state of war, martial law or state of emergency shall be carried out by a competent body, determined under Articles 114 and 122 of the Republic of Bulgaria Defence and Armed Forces Act.

**Article 303.** (1) (Amended, SG No. 35/2009, effected amended, effective 12.05.2009, SG No.105/2011, effective 29.12.2011, SG No. 50/2016, effective 1.07.2016, amended and supplemented, SG No. 94/2019, effective 29.11.2019, amended, SG No. 20/2021, SG No. 15/2022, effective 22.02.2022) Upon exercising the powers thereof under Article 17 herein, the Minister of e-Government shall use, modernize and maintain the readiness of the communication sites with special purpose - an element of the Integrated Communication and Information System for the management of the state and the armed forces and the installed wartime facilities to ensure electronic communications in case of disasters within the meaning of the Disaster Protection Act, in declaring martial law, state of war or state of emergency within the meaning of the Republic of Bulgaria Defence and Armed Forces Act, as well as when declaring a state of emergency within the meaning of the Counter-Terrorism Act.

(2) (Amended, SG No. 35/2009, effective 12.05.2009, SG No. 94/2019, effective 29.11.2019, SG No. 20/2021) The undertakings providing public electronic communications networks and services and having wartime tasks shall use and maintain the electronic communications networks ready to ensure electronic communications in disasters within the meaning of the Disaster Protection Act, in introduction of martial law, state of war or state of emergency within the meaning of the Republic of Bulgaria Defence and Armed Forces Act, as well as in declaring a state of emergency within the meaning of the Counter-Terrorism Act.

(3) (Amended, SG No. 105/2011, effective 29.12.2011) The communications installations referred to in Paragraph (1) and the land whereon the said installations are constructed may be taken by eminent domain, leased or encumbered by rights in rem by decision of the Council of Ministers.

(4) (Amended, SG No. 105/2011, effective 29.12.2011) The communications installations, the installed capacities and the electronic communications network referred to in Article 17 herein may be used and developed for the needs of state governance according to a procedure established by the Council of Ministers.

(5) (Amended, SG No. 105/2011, effective 29.12.2011) The resources for establishment, maintenance, remodelling and modernization of the infrastructure referred to in Paragraph (4) shall

be ensured by the state budget and by other sources according to a procedure established by the Council of Ministers.

**Chapter Nineteen**  
**ENSURING CONDITIONS FOR INTERCEPTION OF ELECTRONIC**  
**COMMUNICATIONS**  
**RELATED TO PROTECTION OF NATIONAL SECURITY AND SAFEGUARDING**  
**PUBLIC ORDER**

**Article 304.** (Supplemented, SG No. 109/2007, amended, SG No. 69/2008, SG No. 70/2013, effective 9.08.2013) The undertakings providing public electronic communications networks and/or services shall ensure a possibility to intercept electronic communications in real time, a possibility for twenty-four-hour surveillance, as well as access in real time to data related to a specific call. Where these data cannot be provided in real time, they shall be provided to the State Agency for Technical Operations and to the State Agency for National Security within the shortest possible period of time after termination of the call. The possibilities for interception, twenty-four-hour surveillance and access to data, related to a specific call in real time, shall be implemented solely according to the procedure established by the Special Surveillance Means Act.

**Article 305.** (1) (Supplemented, SG No. 109/2007, amended, SG No. 69/2008, supplemented, SG No. 17/2010, effective 10.05.2010, amended, SG No. 70/2013, effective 9.08.2013) The undertakings providing public electronic communications networks and/or services shall provide, commission and maintain, for their own account, one or several interception interfaces wherefrom the intercepted electronic communications can be transmitted to the facilities of the State Agency for Technical Operations and of the State Agency for National Security.

(2) (Supplemented, SG No. 109/2007, amended, SG No. 17/2010, effective 10.05.2010, SG No. 70/2013, effective 9.08.2013, amended and supplemented, SG No. 20/2021) The technical parameters, configuration and conditions for maintenance of the interception interfaces ensured by the undertakings providing public electronic communications networks and/or services shall be coordinated with the State Agency for Technical Operations and the State Agency for National Security and shall be endorsed by their Chairpersons.

**Article 306.** The undertakings providing public electronic communications networks and/or services shall provide data related to a specific call and to the content of the said call in a manner allowing the ascertainment of an exact match of the data on the call and the content of the call.

**Article 307.** (Amended, SG No. 109/2007, supplemented, SG No. 20/2021) In case the undertakings providing electronic communications networks and/or services undertake coding, compressing or encrypting of the intercepted electronic communications, the said undertakings shall submit the said communications in their original form to the State Agency for National Security or the State Agency for Technical Operations.

**Article 308.** (Supplemented, SG No. 109/2007, amended, SG No. 69/2008, SG No. 70/2013, effective 9.08.2013) The undertakings providing public electronic communications networks and/or services shall be obligated to ensure a possibility for transmission of intercepted electronic services to the facilities of the State Agency for Technical Operations and of the State Agency for National Security over fixed or switched lines.

**Article 309.** (Supplemented, SG No. 109/2007, amended, SG No. 69/2008, SG No. 70/2013, effective 9.08.2013) Interception shall be implemented in a manner excluding a possibility for illegal interference and ensuring protection of the information related to the interception. The intercepted electronic communications shall be received solely by the State Agency for Technical Operations and by the State Agency for National Security according to the procedure established by the Special Intelligence Means Act.

**Article 310.** (Amended and supplemented, SG No. 109/2007, amended, SG No. 69/2008, SG No. 70/2013, effective 9.08.2013) Before implementation of an interception on legal grounds, the

State Agency for Technical Operations and the State Agency for National Security shall require from the undertakings providing public electronic communications networks and/or services:

1. (amended, SG No. 20/2021) identification data for the end user – contract party under Article 227, number or other identification feature of the electronic communications service;
2. information about the service and the characteristics of the electronic communications system used by the subject of interception and provided by the undertakings providing public electronic communications networks and/or services;
3. (amended, SG No. 69/2008, SG No. 70/2013, effective 9.08.2013, supplemented, SG No. 20/2021) information about the technical parameters of the transmission to the facilities of the State Agency for Technical Operations and the National Agency for National Security.

## **Chapter Twenty**

### **CONTROL**

**Article 311.** (1) Control over the implementation of electronic communications shall be exercised by the Commission.

(2) (Amended and supplemented, SG No. 103/2016) Control over putting into service and use of radio equipment under Article 267 herein shall be exercised by the Commission.

(3) (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 103/2016).

(4) (Supplemented, SG No. 109/2007, amended, SG No. 82/2009, effective 16.10.2009, SG No. 66/2013, effective 26.07.2013, SG No. 98/2014, effective 28.11.2014, SG No. 14/2015, SG No. 103/2016) Upon exercise of the control under Paragraphs (1) and (2), the Commission shall interact with the Ministry of Transport, Information Technology and Communications, the Ministry of Interior, the Ministry of Defence, the State Agency for National Security, State Agency for Metrological and Technical Surveillance, and with the Ministry of Regional Development and Public Works - National Construction Control Directorate, in accordance with a jointly issued instruction proposed by the Commission.

(5) (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 103/2016).

**Article 312.** (1) For the exercise of control over electronic communications, the Chairperson of the Commission shall empower by an order employees of the administration.

(2) The Commission shall mandatorily insure the employees referred to in Paragraph (1) against accident occurring in the course of or in connection with the discharge of the official duties thereof, on resources from the budget of the Commission.

**Article 313.** (1) In performance of the functions thereof, the employees of the Commission empowered under Article 312 (1) herein shall have the right:

1. to carry out inspections and to draw up written statements according to the procedure established by the Administrative Violations and Sanctions Act upon ascertainment of violations;
2. to unobstructed access to the sites subject to control wherein the electronic communications networks, facilities and technical means are located;
3. to ascertain the availability of the documents issued by the Commission, proving the licensed competence of the persons at the sites controlled;
4. (amended, SG No. 105/2011, effective 29.12.2011) to obtain access to original documents, data, information, enquiries and other data mediums related to the exercise of control, as well as to seize certified copies of documents in connection with the implementation of electronic communications activities and/or with the ascertainment of administrative violations under this Act;
5. to inspect accounting, business or other books or documents and data mediums, as well as other documents related to the implementation of electronic communications and/or with the ascertainment of administrative violations under this Act;
6. to require from third parties information, abstracts and other documents necessary for carrying out cross-checks in connection with the exercise of control under this Act and/or with the ascertainment of administrative violations under this Act;

7. to control the quality parameters of the electronic communications services, as well as to carry out documentary and technical inspections;
  8. to inspect, according to the procedure established by the Criminal Procedure Code, premises used by the persons for implementation of electronic communications, as well as premises wherein evidence of the commission of administrative violations is located;
  9. to issue a prescription to the undertakings to cure non-conformities under this Act within a time limit set by the employees in respect of deviations of technical parameters of the electronic communications networks and facilities from assigned values in connection with the implementation of the activity of the said undertakings; a failure to comply with the prescriptions within the time limit set shall constitute an administrative violation within the meaning given by the Administrative Violations and Sanctions Act;
  10. (new, SG No. 20/2021) to give prescriptions not to put into operation and use radio equipment that does not meet the requirements of Article 267; non-compliance with the prescriptions shall be an administrative violation within the meaning of the Administrative Violations and Sanctions Act.
- (2) In the cases of inspection of premises under Item 8 of Paragraph (1), serving as a residence, the inspections shall be carried out by the employees empowered under Article 312 (1) herein, jointly with the authorities of the Ministry of Interior.

**Article 314.** (1) Upon ascertainment of violations, the employees empowered under Article 312 (1) herein shall seize and impound physical evidence related to ascertainment of the violation according to the procedure established by Article 41 of the Administrative Violations and Sanctions Act.

(2) The physical evidence seized shall be subject to confiscation by a penalty decree according to the procedure established by Articles 20 and 21 of the Administrative Violations and Sanctions Act, where the essential elements of violations under this Act have been committed.

(3) The confiscated things shall be stored on premises expressly designated for this until the lapse of one year after the entry into effect of the endorsement, the penalty decree or the judgment of court whereby the penalty decree was upheld.

(4) Upon lapse of the grounds for seizure of the physical evidence under Paragraph (2), the said evidence shall be restored to the owners thereof, acting on a request to this end, addressed to the Chairperson of the Commission.

**Article 315.** (1) After the lapse of the time limit referred to in Article 314 (3) herein, the confiscated things shall be subject to:

1. gratuitous provision, whether in whole or in the part that can be used without violating the laws and the effective national standards, to bodies of state power and of local self-government, to educational establishments for instruction purposes, to hospitals or other organizations providing social services;
2. destruction.

(2) The procedure for provision and destruction of the confiscated things shall be determined by an ordinance of the Council of Ministers proposed by the Commission.

**Article 316.** In the performance of the official duties thereof, the employees empowered under Article 312 (1) herein shall be obligated:

1. to identify themselves by means of an identity card;
2. not to disclose any circumstances and facts as have come to the knowledge thereof in the course of or in connection with the discharge of the official duties thereof.

**Article 317.** (1) The procedure and manner for use and storage of the documents and materials seized under Article 314 herein, as well as the organization of work upon exercise of the control over electronic communications activities, shall be established by decision of the Commission.

(2) The Chairperson of the Commission shall designate the employees of the administration who are responsible for the storage of the documents and materials seized.

(3) The employees referred to in Paragraph (2) and in Article 316 herein shall sign a declaration completed in a standard form in connection with the obligations thereof which shall expressly state, inter alia, the liability incurrable by the said employees for non-fulfilment of the said obligations.

**Article 318.** (1) (Amended, SG No. 105/2011, effective 29.12.2011) The Commission may, by decision, suspend the implementation of electronic communications in the cases covered under Article 78a herein until elimination of the violations.

(2) (Amended, SG No. 105/2011, effective 29.12.2011) A coercive administrative measure of sealing of sites and/or of facilities, which have served upon the implementation of electronic communications may furthermore be imposed by the decision referred to in Paragraph (1) until elimination of the violations.

(3) (New, SG No. 105/2011, effective 29.12.2011) The Commission may, by decision, suspend or delay provision of a service or bundle of services where this would result in significant harm to competition, pending compliance with access obligations imposed following a relevant market analysis.

**Article 319.** (1) (Amended, SG No. 20/2021) Annually the Commission shall prepare a plan for control of the undertakings providing public electronic communications networks and/or services, for fulfilment of the applicable requirements under Article 73 herein and/or the specific obligations, or the authorizations for use of scarce resource.

(2) (Amended, SG No. 20/2021) The Commission shall carry out inspections acting on written alerts about violations of this Act, the statutory instruments of secondary legislation, the applicable requirements under Article 73 herein and/or the specific obligations or the authorizations for use of scarce resource.

**Article 320.** In its annual report referred to in Article 38 (1) herein, the Commission shall prepare an analysis of the results of the control exercised and shall propose, in accordance with the best European practice, measures for improvement of the effectiveness of control and preventive measures for containment of potential violations upon the implementation of electronic communications.

**Article 321.** (Amended, SG No. 43/2008, SG No. 93/2009, SG No. 20/2021) The control referred to in Article 274 (1) herein shall be exercised by the employees of the State Agency for National Security.

**Article 322.** The employees referred to in Article 321 herein shall have the right:

1. to carry out inspections and, upon ascertainment of violations, to draw up written statements according to the procedure established by the Administrative Violations and Sanctions Act;
2. to unobstructed access to the sites wherein radio equipment or terminal equipment referred to in Article 274 (1) herein are located;
3. to require from the persons inspected to produce originals of documents, data, information, enquiries and other data mediums related to the exercise of control;
4. to require from third parties information, abstracts and other documents necessary for the exercise of the control.

**Article 323.** (1) Upon ascertainment of a violation under Article 335 herein, the employees referred to in Article 321 herein may seize and impound the physical evidence related to ascertainment of the violation.

(2) The physical evidence seized shall be confiscated by a penalty decree according to the procedure established by Articles 20 and 21 of the Administrative Violations and Sanctions Act.

(3) The confiscated things shall be stored on special premises until entry into effect of the act whereby the confiscation has been decrees or of the judgment of court whereby the said act was upheld.

(4) Upon revocation of the penalty decree whereby the physical evidence was seized, the said evidence shall be restored to the owners thereof.

(5) After the entry into effect of the act or of the judgment of court referred to in Paragraph (3), the confiscated things shall:

1. (amended and supplemented, SG No. 43/2008) be used gratuitously by the authorities of the Ministry of Interior, the Ministry of Defence and the State Agency for National Security at their request;
2. (amended, SG No. 43/2008) be destroyed on the basis of an order of the Chairperson of the State Agency for National Security.

**Article 323a.** (New, SG No. 105/2011, effective 29.12.2011) (1) (Amended, SG No. 17/2019) The implementation of the obligation set out in Article 251g and Article 261c and the compliance with the instructions and recommendations referred to in Article 261d shall be supervised by the Commission for Personal Data Protection under the terms and conditions and according to the procedure laid down in Regulation (EU) 2016/679 and the Personal Data Protection Act.  
(2) (Repealed, SG No. 17/2019).

**Article 323b.** (New, SG No. 105/2011, effective 29.12.2011, repealed, SG No. 21/2018, effective 9.03.2018).

## **Chapter Twenty-One**

### **ADMINISTRATIVE PENALTY PROVISIONS**

**Article 324.** (1) (Amended, SG No. 20/2021) Whoever provides public electronic communications networks or services which require the granting of authorization for use of scarce resource, without having been granted such authorization or, who continues to provide electronic communications after termination of the validity or revocation of an authorization granted thereto, shall be punished by a fine in the amount of BGN 30,000 up to BGN 300,000, in case the act does not constitute a criminal offence.

(2) (Amended, SG No. 20/2021) Whoever implements electronic communications for private needs requiring an authorization for use of scarce resource, without having been granted such authorization or, who continues to provide electronic communications after suspension or revocation of an authorization granted thereto, shall be punished by a fine in the amount of BGN 5, 000 up to BGN 50,000 in case the act does not constitute a criminal offence.

(3) (Amended, SG No. 20/2021) Whoever provides private electronic communications networks or services which require a provisional authorization for use of radiofrequency spectrum, without having been granted such authorization or, who continues to provide electronic communications after termination of the validity of a provisional authorization granted thereto, shall be punished by a fine in the amount of BGN 30,000 up to BGM 300,000, in case the act does not constitute a criminal offence.

(4) (Amended, SG No. 20/2021) Whoever implements electronic communications for private needs, which require a provisional authorization for use of radio frequency spectrum, without having been granted such authorization or, who continues to provide electronic communications after termination of the validity of a provisional authorization granted thereto, shall be punished by a fine of BGN 5,000 up to BGN 50 000, in case the act does not constitute a criminal offence.

(5) (New, SG No. 20/2021) Whoever, without registration implements electronic communications which require registration, shall be punished by a fine in the amount of BGN 3,000 up to BGN 30,000.

(6) (Renumbered from Paragraph (5), amended, SG No. 20/2021) Whoever provides public electronic communications networks or services without having submitted a notification to the Commission under Article 66 herein, shall be punished by a fine in the amount of BGN 3,000 up to BGN 15,000.

(7) (Renumbered from Paragraph (6), SG No. 20/2021) Any person, who establishes an interconnection with or access to the network of an undertaking which provides public electronic communications services not according to the procedure established by the law, for provision of electronic communications for commercial purposes, shall be liable to a fine of BGN 3 000 or exceeding this amount but not exceeding BGN 15,000.

(8) (Renumbered from Paragraph (7), amended, SG No. 20/2021) For repeated violations referred to in Paragraphs (1) to (6), the administrative sanctioning authority may, by a penalty decree, deprive

the offender from the right to implement the relevant electronic communications for which the said offender has been sanctioned, for a period of up to one year.

**Article 325.** (1) (Amended, SG No. 20/2021) Whoever provides public electronic communications networks or services for which an authorization for use of scarce resource has been granted thereto and, violates the conditions of the authorization shall be punished by a fine in the amount of BGN 10,000 up to BGN 100,000.

(2) (Amended, SG No. 20/2021) Whoever implements electronic communications for private needs for which an authorization for use of radio frequency spectrum has been granted and, violates the conditions of the authorization shall be punished by a fine of BGN 1,000 up to BGN 10,000.

(3) (New, SG No. 20/2021) Whoever implements electronic communications on the basis of registration and violates the applicable rules under Article 66a (3), shall be punished by a fine in the amount of BGN 1,000 up to BGN 10,000.

**Article 326.** Any undertaking providing public electronic communications networks and/or services after submission of a notification under Article 66 herein, which violates any of the general requirements under Article 73 herein and/or a specific obligation, shall be liable to a fine of BGN 3,000 of exceeding this amount but not exceeding BGN 15,000.

**Article 326a.** (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021)

(1) A pecuniary penalty in the amount of BGN 5,000 up to BGN 60,000 shall be imposed to any undertaking providing public electronic communications networks or services, which has committed a violation under Chapter Seven, Section II.

(2) A pecuniary penalty in the amount of BGN 5,000 up to BGN 60,000 shall be imposed on any undertaking providing public electronic communications networks or services, which has violated the functional specifications for number portability adopted by the Commission.

(3) A pecuniary penalty in the amount of BGN 5,000 up to BGN 60,000 shall be imposed on any undertaking providing public electronic communications networks or services, which has committed violation under Chapter Fourteen of Section III.

**Article 327.** (1) Any person, who violates the rules regarding the protection of confidentiality of communications and the related traffic data sent over public electronic communications networks, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000 in case the act does not constitute a criminal offence.

(2) Any undertaking providing public electronic communications networks and/or services, which fails to fulfil an obligation to ensure conditions for interception of electronic communications related to protection of national security and safeguarding public order, shall be liable to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000.

(3) (Repealed, SG No. 17/2019).

(4) (New, SG No. 17/2010, effective 10.05.2010, amended, SG No. 24/2015, effective 31.03.2015) Any undertaking providing public electronic communications networks and/or services, which fails to fulfil an obligation referred to in Article 251b herein, shall be liable to a pecuniary penalty of BGN 3,000 or exceeding this amount but not exceeding BGN 25,000.

(5) (New, SG No. 17/2010, effective 10.05.2010, amended, SG No. 24/2015, effective 31.03.2015) Any undertaking providing public electronic communications networks and/or services, which fails to fulfil an obligation referred to in Article 251e herein, shall be liable to a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 12,000.

(6) (New, SG No. 17/2010, effective 10.05.2010, amended, SG No. 24/2015, effective 31.03.2015) Any undertaking providing public electronic communications networks and/or services, which fails to fulfil an obligation referred to in Article 251f herein, shall be liable to a pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 25,000.

(7) (New, SG No. 17/2010, effective 10.05.2010) For a repeated infringement under Paragraph (6), a pecuniary penalty of BGN 15,000 or exceeding this amount but not exceeding BGN 50,000 shall be imposed.

**Article 328.** (1) Any person, who interferes with or alters the content of communications of third parties in a public electronic communications network through use of electronic

communications facilities, shall be liable to a fine of BGN 200 or exceeding this amount but not exceeding BGN 2,000 in case the act does not constitute a criminal offence.

(2) Any person who, for the purpose of obtaining for himself or herself or for another a benefit, uses an electronic communications network without legal grounds and thereby inflicts detriment on the undertaking stewarding the electronic communications network or on a third party, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000 in case the act does not constitute a criminal offence, and the detriment shall be restituted according to the standard action procedure.

**Article 329.** (Supplemented, SG No. 17/2009) Any person, who transmits over a public electronic communications network false calls or misleading signs and/or signals for help, disaster, breakdown, accident or alert, except in the cases where the calls are to the single European emergency call number "112", shall be liable to a fine of BGN 2,000 or exceeding this amount but not exceeding BGN 20,000.

**Article 330.** (Supplemented, SG No. 103/2016, SG No. 20/2021) Whoever puts into service or uses radio equipment for which a restriction has been introduced under Article 267 (1) herein, shall be punished by a fine of BGN 5,000 up to BGN 15,000, in case the act does not constitute a criminal offence.

**Article 331.** (1) Any person who, upon request by the Commission, fails to provide information related to the application of this Act or provides false, deficient, inaccurate information, or fails to provide information within the time limit which may be set in the request, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 2,500.

(2) Any person, who obstructs the exercise of control under Article 311 herein by the Commission, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 5,000.

(3) (Amended, SG No. 29/2015) Any person, who fails to comply with a decision of the Commission, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000.

(4) (Amended, SG No. 29/2015) Any person, who fails to comply with a decision of the Commission under Article 61 herein, shall be liable to a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 50,000.

(5) (Amended, SG No. 29/2015, repealed, SG No. 20/2021).

(6) (Amended, SG No. 105/2011, effective 29.12.2011) Any undertaking providing public electronic communications networks and/or services, which fails to present documents to the Commission or fails to provide information or provides false, deficient, inaccurate or overdue information to the Commission, where such documents and information are necessary for designation of an undertaking with significant market power, shall be liable to a fine of BGN 5,000 or exceeding this amount but not exceeding BGN 50,000.

(7) (Amended, SG No. 29/2015) Any undertaking with significant market power, which fails to comply with a decision of the Commission regarding the specific obligations of the said undertaking as an undertaking with significant market power, shall be liable to a pecuniary penalty of BGN 100,000 or exceeding this amount but not exceeding BGN 1,000,000.

(8) (New, SG No. 20/2021) An undertaking that fails to fulfil a commitment in connection with the conditions for access and/or co-investments under Article 172i (1) which has been given binding force by the Commission on the grounds of Article 172i (7), shall be punished by a pecuniary penalty in the amount of BGN 100,000 up to BGN 1,000,000.

(9) (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 29/2015, renumbered from Paragraph (8), SG No. 20/2021) Any undertaking providing public electronic communications networks and/or services, which fails to comply with a provisional obligation imposed by a decision, shall be liable to a pecuniary penalty of BGN 50,000 up to BGN 200,000.

(10) (New, SG No. 103/2016, supplemented, SG No.101/2017, effective 19.12.2017, renumbered from Paragraph 9, amended, SG No. 20/2021) Any undertaking providing public electronic communications networks and/or services, which upon request by the Commission fails to provide information under Article 16 (4) of Regulation (EU) No. 531/2012, or provides false, deficient or



inaccurate information or provides it after expiry of the time limit specified in the request, or provides to the Commission false information under Article 6c (2) of the Regulation, shall be punished by a pecuniary penalty in the amount of BGN 5,000 up to BGN 50,000.

(11) (New, SG No. 103/2016, amended, SG No. 74/2019, renumbered from Paragraph (10), amended, SG No. 20/2021) Any undertaking providing public electronic communications networks and/or services, which upon request by the Commission fails to provide information under Article 5 (2) and Article 5a (6) of Regulation (EU) 2015/2120, or provides false, deficient or inaccurate information or provides it after expiry of the term specified in the request, shall be punished by a pecuniary penalty in the amount of BGN 4,000 up to BGN 40,000.

(12) (New, SG No. 20/2021) Any undertaking or a public authority that provides false, incomplete or inaccurate information under Article 181a or fail to provide it within the time limit determined by the Commission, shall be punished by a fine or pecuniary penalty in the amount of BGN 500 up to BGN 5,000.

**Article 331a.** (New, SG No. 29/2015) (1) (Supplemented, SG No. 103/2016) In the event of non-compliance with a decision under Article 78 (1) herein or a decision under Article 16 (6) of Regulation (EU) No. 531/2012:

1. the chairman shall impose the sanction for non-compliance with the respective obligation as envisaged in this chapter and/or

2. the commission shall impose a pecuniary sanction in the amount of BGN 500 to BGN 5,000 per day.

(2) The pecuniary sanction under Paragraph 1, Item 2 shall be imposed pending the implementation of the decision of the commission according to the procedure of chapter seventeen of the Administrative Procedures Code.

(3) The pecuniary sanctions imposed under Paragraph 1, Item 2 shall be subject to appeal according to the procedure of chapter seventeen, section VI of the Administrative Procedures Code.

(4) The reinstatement of a violated right and the indemnification of the damages from the implementation of an administrative instrument, which was repealed after its implementation began, shall be effected according to the procedure of chapter seventeen, section VII of the Administrative Procedures Code.

**Article 332.** (Amended, SG No. 17/2009, repealed, SG No. 21/2018, effective 9.03.2018).

**Article 332a.** (New, SG No. 17/2009, amended and supplemented, SG No. 17/2010, effective 10.05.2010, amended, SG No. 24/2015, effective 31.03.2015) Any official of a state body or undertaking providing public electronic communications networks and/or services, who breaches the duties thereof or abuses the data under Article 251b (1) herein, shall be liable to a fine of BGN 1,000 or exceeding this amount but not exceeding BGN 10,000, unless the act constitutes a criminal offence.

**Article 333.** Any persons referred to in Article 312 (1) herein, who disclose, provide, publish, use or otherwise disseminate any data and circumstances constituting an official secret, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 5,000 and shall be deprived of the right to occupy the respective position for a period of six months or exceeding this duration but not exceeding one year.

**Article 334.** A pecuniary penalty of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000 shall be imposed for any violation of Article 301 (1) herein.

**Article 334a.** (New, SG No. 17/2009) (1) A fine of BGN 10,000 or exceeding this amount but not exceeding BGN 50,000 shall be imposed for any violation of Article 178 (2) herein.

(2) If the act referred to in Paragraph (1) has inflicted substantial damage or has led to the occurrence of other grave consequences, the sanction shall be a fine of BGN 500,000 or exceeding this amount but not exceeding BGN 1,000,000.

**Article 334b.** (New, SG No. 17/2009, amended, SG No. 27/2010, effective 9.04.2010) (1) (Amended, SG No. 29/2015, SG No. 103/2016) Any undertaking providing roaming services through public electronic communication networks, which violates the requirements of Regulation (EU) No. 531/2012, shall be liable to pecuniary penalties, as follows:

1. for infringement of Article 3 of the Regulation: to the amount of BGN 400,000 or exceeding this amount but not exceeding BGN 2,000,000;
  2. for infringement of Article 4 of the Regulation: to the amount of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000;
  3. for infringement of Article 5, paragraph 1 of the Regulation: to the amount of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000;
  4. (new, SG No. 103/2016, amended, SG No. 101/2017, effective 19.12.2017) for infringements of Article 6a, Article 6b of the Regulation in conjunction with Article 3, 4 or 5 of Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016 laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment (OJ, L 344/46 of 17.12.2016) and Article 6e, paragraph 1 of the Regulation: to the amount of BGN 50,000 or exceeding this amount but not exceeding BGN 2,000,000;
  5. (repealed, new, SG No. 103/2016) for infringement of Article 6e (3) and (4) of the Regulation: to the amount of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000;
  6. (repealed, renumbered from Item 4, SG No. 103/2016) for infringement of Article 7 of the Regulation: to the amount of BGN 400,000 or exceeding this amount but not exceeding BGN 2,000,000;
  7. for infringement of Article 9 of the Regulation: to the amount of BGN 400,000 or exceeding this amount but not exceeding BGN 2,000,000;
  8. (repealed, SG No. 103/2016);
  9. (repealed, SG No. 103/2016);
  10. (repealed, SG No. 103/2016);
  11. for infringement of Article 11 of the Regulation: to the amount of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000;
  12. for infringement of Article 12 of the Regulation: to the amount of BGN 400,000 or exceeding this amount but not exceeding BGN 2,000,000;
  13. (repealed, SG No. 103/2016);
  14. (repealed, SG No. 103/2016);
  15. for infringement of Article 14 of the Regulation – to the amount of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000;
  16. for infringement of Article 15 of the Regulation – to the amount of BGN 10,000 or exceeding this amount but not exceeding BGN 100,000.
- (2) For a repeated infringement under Paragraph (1) the pecuniary penalty shall be imposed in an amount that may not be less than the double amount of the penalty imposed under Paragraph (1) for the first infringement.

**Article 334c.** (New, SG No. 105/2011, effective 29.12.2011) (1) Any undertaking providing public electronic communications networks and/or services, which fails to comply with an obligation referred to in Article 261c herein, shall be liable to a pecuniary penalty of BGN 2,000 or exceeding this amount but not exceeding BGN 20,000.

(2) A pecuniary penalty to an amount double the amount of the penalty imposed under Paragraph (1) shall be imposed for a repeated violation referred to in Paragraph (1).

**Article 334d.** (New, SG No. 103/2016) (1) (Amended, SG No. 20/2021) For infringement of Article 3 of Regulation (EU) 2015/2120 a pecuniary penalty of BGN 2,000 up to BGN 200, 000 shall be imposed.

(2) (Amended, SG No. 20/2021) For infringement of Article 4 of Regulation (EU) 2015/2120 a pecuniary penalty of BGN 500 up to BGN 5,000 shall be imposed.

(3) (New, SG No. 74/2019) The following pecuniary penalties shall be imposed for violations of Article 5a of Regulation (EU) 2015/2120:

1. for violations of Paragraph (1) or Paragraph (3): in the amount of BGN 20,000 up to BGN 400,000;

2. for violations of Paragraph (2): in the amount of between BGN 500 and BGN 5,000;
3. for violations of Paragraph (4): in the amount of between BGN 5,000 and BGN 50,000.
- (4) (Renumbered from Paragraph 3, amended, SG No. 74/2019) For a repeated infringement under Paragraphs (1) – (3) the pecuniary penalty shall be imposed in an amount that is double the amount of the penalty imposed for the first infringement.

**Article 334e.** (New, SG No. 62/2020, amended, SG No. 20/2021) A pecuniary penalty of BGN 500 up to BGN 5,000 shall be imposed for any violation of Article 33 (7) herein.

**Article 334f.** (New, SG No. 20/2021) A pecuniary penalty in the amount of BGN 500 up to BGN 2,500 shall be imposed for any violation of Article 160d (4) herein.

**Article 334g.** (New, SG No. 20/2021) For infringement of Implementing Regulation (EU) 2019/2243 a penalty payment in the amount of BGN 500 to BGN 5,000 shall be imposed.

**Article 335.** A fine to the amount of BGN 500 or exceeding this amount but not exceeding BGN 5,000 shall be imposed for any violation of this Act and of the acts issued in pursuance thereof, wherefor no other sanction is provided.

**Article 336.** (Amended, SG No. 17/2009/, amended, SG No. 105/2011, effective 29.12.2011, amended, SG No. 21/2018, effective 9.03.2018, SG No. 20/2021) Penalty payments in the amount equivalent to the amounts of the fines provided for shall be imposed for the violations under Article 324 (1) to (7), Article 325, Article 327 (1), Articles 328, 330, Article 331 (1) – (4), Articles 334a, 335, 340 and 343 herein, committed by legal persons or sole traders.

**Article 337.** (Amended, SG No. 47/2019) (1) The establishment of violations and the issuance, appeal and execution of penal decrees shall be carried out in accordance with a procedure set forth on the Administrative Violations and Sanctions Act, unless another procedure is provided hereunder.

(2) (Amended, SG No. 20/2021) The violations under Articles 324 – 334b, Articles 334d – 335, Art, 339, Article 339a, Article 340 and Article 343 shall be ascertained by statements drawn up by the employees empowered under Article 312 (1).

**Article 337a.** (New, SG No. 47/2019) (1) Where the offender is a sole trader or a legal person, the statement of administrative offence shall be served against signature on the trader, the legal representative of the legal person or a person authorised thereby.

(2) Where the statement has been drawn up without the offender being present, said statement shall be sent:

1. in paper form by registered mail with acknowledgment of receipt addressed to the management address or correspondence address entered in the relevant register kept by the Registry Agency, or
2. as an electronic image of the document in paper form by means of an electronic message signed with a qualified electronic signature, in accordance with the Electronic Document and Electronic Trust Services Act, at the electronic address specified in the statutory register in which the addressee is entered, or at an address in an information system for secure service; the sending of the electronic message shall be certified by an electronic time stamp according to Chapter III, Section 6 of Regulation (EU) No. 910/2014, or by reproducing the electronic image of the message on paper, with its identity verified by the signature of the official on each page, and shall be attached to the file.

(3) A statement sent by mail shall be deemed to have been served on the date on which the acknowledgement of receipt is signed by the trader, the legal representative of the legal person or their proxy or employee designated to receive papers and communications.

(4) A statement sent by an electronic message shall be deemed to have been served where within 7 days of the sending of the electronic message the addressee transmits confirmation of its receipt via return electronic message, activation of an electronic reference or its retrieval from the information system for secure service.

(5) Where the statement has been served by both acknowledgement of receipt and by an electronic message, the later date shall be considered to be the date of service.

(6) Where the statement cannot be served in accordance with the procedure set out in paragraphs 2 to 5, an announcement that it has been drawn up shall be posted immediately on the bulletin board and

in a dedicated section of the Internet site of the Commission visible on initial upload. The date of posting shall also be specified in the notice.

(7) Where within 14 days of posting the notice in accordance with paragraph 6 the addressee fails to appear at the Commission in order to be served the statement and sign it, the person who drew up the statement shall note this fact in the statement and attach it to the file; the statement will be considered to have been regularly served on the day of making the note.

**Article 337b.** (New, SG No. 47/2019) (1) On the basis of the written statements referred to in Article 337 (2), the Chairperson of the Commission or an official expressly empowered thereby, who is a member of the Commission, shall issue penalty decrees or reasoned endorsements on termination of the administrative penalty proceeding.

(2) A copy of the penalty decree shall be served to the offender against signature.

(3) Where the penalty decree cannot be served on the sole trader or the legal person at the address indicated thereby or at the management address or address for correspondence entered in the respective register kept by the Registry Agency, paragraphs 6 and 7 of Article 337a shall apply, including in case of refusal to receive a copy of the penalty decree, and the note shall be made by the sanctioning authority.

**Article 338.** (Repealed, SG No. 20/2021).

**Article 339.** (1) (Amended, SG No. 20/2021) Any member of the expert committee referred to in Article 99 (1) herein, who fails to declare in writing to the Commission any material commercial, financial or other business interest which the said member and/or any parties economically related to the said member or to family members thereof have upon the selection of a specific candidate for granting of an authorization for use of scarce resource, shall be punished by a fine of BGN 1,000 up to BGN 5,000.

(2) (Amended, SG No. 20/2021) Any member of the expert committee under Article 99 (1) herein, who is appointed to management bodies of any candidate which has won a contest or tender for the granting of an authorization for use of scarce resource within one year from the granting of the said authorization, shall be punished by a fine of BGN 3,000 up to BGN 8,000.

(3) Any member of the expert committee referred to in Article 99 (1) herein, in respect of whom it is ascertained that the said member has presented false particulars in the declaration referred to in Article 99 (4) herein shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 2,000, in case the act does not constitute a criminal offence.

**Article 339a.** (New, SG No. 11/2014, effective 7.02.2014) Pecuniary penalties to the amount of BGN 1000 or exceeding this amount but not exceeding BGN 5,000 shall be imposed on any undertakings providing public electronic communications services through electronic communication networks for any violations under Article 260 and Article 260a herein.

**Article 340.** (Amended, SG No. 105/2011, effective 29.12.2011) A fine of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000 shall be imposed for any violations under Article 261 (4) herein.

**Article 341.** (Repealed, SG No. 21/2018, effective 9.03.2018).

**Article 342.** (1) (Amended, SG No. 43/2008, SG No. 93/2009, SG No. 20/2021) Whoever manufactures or imports any radio equipment or terminal equipment under Article 274 (1) herein without having registered the said equipment at the State Agency for National Security, shall be punished by a fine of BGN 2,000 up to BGN 5,000.

(2) Where the violation referred to in Paragraph (1) has been committed by a legal person or by a sole trader, a pecuniary penalty to the amount of BGN 5,000 or exceeding this amount but not exceeding BGN 10,000 shall be imposed.

(3) A fine or a pecuniary penalty to an amount double the amount of the initially imposed fine or penalty shall be imposed for a repeated violation referred to in Paragraph (1).

**Article 343.** Any person, who fails to provide the information referred to in Article 272 herein, shall be liable to a fine of BGN 500 or exceeding this amount but not exceeding BGN 1,000.

**Article 344.** (1) Upon ascertainment of violations under Article 342 herein, the employees referred to in Article 321 herein shall draw up written statements according to the procedure established by the Administrative Violations and Sanctions Act.

(2) (Amended, SG No. 43/2008) On the basis of the written statements referred to in Paragraph (1), the Chairperson of the State Agency for National Security or an official expressly empowered thereby shall issue penalty decrees or reasoned endorsements on termination of the administrative penalty proceeding.

(3) The ascertainment of violations, the issuing, appeal against and execution of penalty decrees shall follow the procedure established by the Administrative Violations and Sanctions Act.

## **SUPPLEMENTARY PROVISIONS**

**(Heading amended, SG No. 17/2009)**

**§ 1.** Within the meaning given by this Act:

1. (Repealed, SG No. 20/2021).

2. (Amended, SG No. 17/2009, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) "Local loop" is the physical path used by electronic communications signals connecting the network termination point to a distribution frame or equivalent facility in the fixed public electronic communications networks.

3. (Repealed, SG No. 20/2021).

4. (Amended, SG No. 20/2021) "Interconnection" is a specific type of access implemented between public network operators by means of the physical and logical linking of public electronic communications networks used by the same or a different undertaking in order to allow the users of one undertaking to communicate with users of the same or another undertaking, or to access services provided by another undertaking where such services are provided by the parties involved or other parties who have access to the network of one undertaking to exchange communications with users of the same or another undertaking or to gain access to services provided by another undertaking where such services are provided by participating parties or by other parties having access to the network.

5. (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) "Harmful interference" is interference which endangers the functioning of a radio navigation service or of other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts a radio communications service operating in accordance with the applicable international, European Union or national regulations.

6. (Amended, SG No. 20/2021) "Geographic number" is 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.

7. (Supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) "Caller location information" in a public mobile network is the data processed, derived from network infrastructure or handsets, indicating the geographic position of an end-user's mobile terminal equipment, and in a public fixed network, the data about the physical address of the network termination point.

8. (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) "Access" is the making available of facilities 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. This shall cover access to network elements and associated facilities and services, which may involve the connection of equipment by wire or wireless (including access to the local loop and to facilities and services necessary to provide services through the local loop), access to physical infrastructure, including buildings, ducts and shafts; access to relevant software systems, including operational support systems; access to information systems or databases for pre-ordering, provisioning, ordering, maintenance, repair and billing; access to number translation systems or systems offering equivalent functionality; access to fixed and mobile networks, including for

implementation of roaming; access to conditional access systems for digital television services; access to virtual network services.

8a. (New, SG No. 105/2011, effective 29.12.2011) "Access on an exclusive basis" shall be access in which the undertaking providing access may not use the facilities whereto the said undertaking has provided access.

8b. (New, SG No. 105/2011, effective 29.12.2011) "Access on a non-exclusive basis" shall be access in which the undertaking providing access may use the facilities whereto the said undertaking has provided access, as well as to cede a non-exclusive right to the said facilities to third parties.

9. (Repealed, SG No. 20/2021).

9a. (New, SG No. 20/2021) "European cybersecurity certification scheme" is a set of rules, technical requirements, standards and procedures, defined and established in the European Union, that apply to the certification or conformity assessment of specific products, services or processes in the field of information and communication technologies.

9b. (New, SG No. 20/2021) "Experimental use" is the use of radio frequency spectrum to test new radio equipment in operating conditions in order to promote technical innovation.

10. (Amended, SG No. 20/2021) "Electromagnetic compatibility" is the ability of the equipment to function acceptably in its electromagnetic environment without creating unwanted interfering electromagnetic effects on other equipment in that environment.

11. (Amended, SG No. 20/2021) "E-mail" is a message in the form of text, voice, sound or image sent via a public electronic communications network, which can be stored in it or received in the recipient's terminal equipment.

12. "Electronic programme guide" is a technical means or a technical solution, which makes possible the selection of programmes, transmitted through digital television systems, by providing additional information about each channel and programme content.

13. (Amended, SG No. 20/2021) "Electronic communications infrastructure" is a totality of all or some of the following elements: electronic communications facilities, including lines, cable systems, poles, towers, ducts, shafts, pipes, masts, cables and facilities, which are used to implement electronic communications, except terminal equipment.

14. "Electronic communications equipment" is any electronic communications equipment and related technical means, including antennas.

15. (Amended and supplemented, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) "Electronic communications network" is a totality of transmission systems, whether based on permanent infrastructure or centralized administrative capacity and, where applicable, switching or routing facilities and other resources, including network elements which are not active, permitting the conveyance of signals by wire, radio, optical or other electromagnetic means, including satellite networks, fixed (circuit- and packet-switched, including Internet) and mobile networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks used for radio and TV broadcasting, and cable television networks, irrespective of the type of information conveyed.

16. "Electronic communications for private needs" is the implementation of electronic communications for non-commercial purposes. Private use is in evidence where the network is not used as a means to provide electronic communications services.

17. (Amended, SG No. 20/2021) "Electronic communications service" is a service normally provided for remuneration, via electronic communications networks, which encompasses the following types of services: Internet access service; interpersonal communications service and services consisting wholly or mainly in the conveyance of signals, such as transmission services used for the provision of machine-to-machine and broadcasting services. The electronic communications service does not include services providing, or exercising editorial control over, content transmitted using through electronic communications networks and services.

17a. (New, SG No. 17/2009) "Illicit equipment" is any equipment, software and/or arrangement designed or adapted to give access to a protected service in an intelligible form without authorization of the service provider.

18. "Safeguarding the public interest" is protecting the citizens' dignity, justice and civil rights and freedoms, as recognized by legislation, as well as guaranteeing national security, defence and public order, and ensuring conditions for the effective use of scarce resources and the promotion of effective competition.
19. (Amended, SG No. 20/2021) "Calling line identification" shall be a function of the network which enables the called end-user to obtain information about the number of the calling end-user prior to the commencement of the exchange of information.
20. (Amended, SG No. 20/2021) "Connected line identification" shall be a function of the network, which enables the calling end-user to obtain information about the number of the called end-user while the call is being established.
21. (Repealed, SG No. 20/2021).
22. "Internet" shall be a system of interconnected networks using an Internet Protocol allowing them to function as an independent virtual network.
23. "Interface" is an electric, electronic, electromagnetic or optical system, including or not software and enabling interconnectivity or exchange of signals among facilities connected through it, while observing the respective technical specifications.
24. (Amended, SG No. 20/2021) "Application programme interface" (API) is the software interfaces between different applications, made available by broadcasters or service providers, and the resources in the enhanced digital television equipment for digital television and radio services.
25. (Repealed, SG No. 20/2021).
- 25a. (New, SG No. 20/2021) "Security incident" is an event having an actual adverse effect on the security of electronic communications networks or services.
26. (Amended, SG No. 20/2021) "End user" is a user not providing public electronic communications networks or public electronic communications services.
27. (Amended, SG No. 20/2021) "Network termination point" is the physical point at which an end-user is provided with access to a public electronic communications network, and which, in the case of networks involving switching or routing, is identified by means of a specific network address, which may be linked to an end-user number or name.
28. (Amended, SG No. 20/2021.) "Terminal equipment" is:
- a) equipment directly or indirectly connected to the interface of a public telecommunications network to send, process or receive information; in either case (direct or indirect), the connection may be made by wire, optical fibre or electromagnetically; a connection is indirect if equipment is placed between the terminal and the interface of the network;
  - b) satellite earth station equipment.
- 28a. (New, SG No. 20/2021) "Short term project" shall be a project in which radio frequency spectrum is used for testing network equipment for the purpose of putting into operation new networks and/or technologies; for ensuring the technical compatibility of network facilities, the integrity and security of networks and the quality of services provided, as well as for scientific purposes.
- 28b. (New, SG No. 20/2021) "Short-term event" is an event involving meetings, conferences, cultural and educational activities, trade fairs, entertainment (festivals, concerts, theatre, air show, etc.), sports competitions, films and advertising, corporate video links, religious and other public or private events. A short-term event may be related to the production of programmes for direct transmission of news and information from the place of the event.
29. "Cryptographic key" is a series of symbols used in an algorithm to generate cipher text (encryption) from plain text or, vice versa, from cipher text into plain text (decryption).
- 29a. (New, SG No. 20/2021) "Radio local area network" (RLAN) is low-power wireless access system, operating within a small range, with a low risk of interference with other such systems deployed in close proximity by other users, using, on a non-exclusive basis, harmonised radio spectrum.
- 29b. (New, SG No. 20/2021) "Small undertaking" is an enterprise within the meaning of Article 3 (2) of the Small and Medium-Sized Enterprises Act, except the cases under Article 63 (3).

30. (Repealed, SG No. 105/2011, effective 29.12.2011).

31. "Routing" is a process of determination of an alternative route or a method for implementing electronic communications between two points of one or more electronic communications networks.

31a. (New, SG No. 20/2021) "Interpersonal communications service" is a service, normally provided for remuneration that enables direct interpersonal and interactive exchange of information via electronic communications networks between a finite number of persons, whereby the persons initiating or participating in the communication determine its recipient(s), and does not include services which enable interpersonal and interactive communication merely as a minor ancillary feature that is intrinsically linked to another service.

31b. (New, SG No. 20/2021) "Number-independent interpersonal communications service" is an interpersonal communication service which does not connect with a number or numbers from national or international numbering plans, or which does not enable communication with a number or numbers in national or international numbering plans;

31c. (New, SG No. 20/2021) "Number-based interpersonal communications service" is an interpersonal communication service which connects with a number or numbers in national or international numbering plans, or which enables communication with a number or numbers in national or international numbering plans; The use of a number solely as an identifier is not regarded as equivalent to the use of a number to communicate through a number or numbers from national or international numbering plans, and is not considered sufficient to designate a service as an interpersonal communications service with a number.

31d. (New, SG No. 20/2021) "International coordination of radio spectrum, geostationary orbital positions with the corresponding radio spectrum, radio frequencies and radio frequency bands" is the process of obtaining the consent of all administrations concerned where such consent is required under the provisions of the Radio Regulations of the International Telecommunication Union.

31e. (New, SG No. 20/2021) "International registration of radio frequency spectrum, geostationary orbital positions with the corresponding radio frequency spectrum, radio frequencies and radio frequency bands" is a process of recording already coordinated geostationary orbital positions with the corresponding radio frequency spectrum, radio frequencies and radio frequency bands in the International Frequency Register of the International Telecommunication Union.

31f. (New, SG No. 20/2021) "Micro-undertaking" is an enterprise within the meaning of Article 3 (3) of the Small and Medium-Sized Enterprises Act, except the cases under Article 63 (3).

31g. (New, SG No. 20/2021) "Very high capacity network" is either an electronic communications network which consists wholly of optical fibre elements at least up to the distribution point at the serving location, or an electronic communications network which is capable of delivering, under usual peak-time conditions, similar network performance in terms of available downlink and uplink bandwidth, resilience, error-related parameters, and latency and its variation. Network performance can be considered similar regardless of whether the end-user experience varies due to the different characteristics of the medium to the network termination point.

32. (Amended, SG No. 20/2021) "Analogue/digital terrestrial broadcasting" is the transmission by terrestrial radio transmitters of analogue/digital radio or television signals intended for reception by the public. The radio transmitters of radio- and television signals are part of the electronic communications networks for terrestrial broadcasting.

32a. (New, SG No. 20/2021) "Most appropriate emergency call center" is an emergency call center established by the Ministry of Interior to receive emergency calls from a specific area or type.

33. (Amended, SG No. 20/2021) "Non-geographic number" is a number from the National Numbering Plan that is not a geographic number, such as mobile, free phone and value-added services.

34. "Unbundled access to the local loop" is the provision of full unbundled access to the local loop or shared access to the local loop; without entailing a change in ownership of the local loop.

34a. (New, SG No. 105/2011, effective 29.12.2011) "Personal data breach" is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or



access to, personal data transmitted, stored or otherwise processed in connection with the provision of a public electronic communications service.

34b. (New, SG No. 20/2021) "New radio equipment" is radio equipment for testing new technology, which does not meet the requirements of the Technical Requirements Towards Products Act and its implementing acts, and whose technical characteristics do not meet those under Article 66a (3).

35. (Amended, SG No. 27/2010, effective 9.04.2010, repealed, SG No. 105/2011, effective 29.12.2011).

36. (Amended, SG No. 20/2021) "Numbering resources" are codes, numbers, names, addresses and identifiers used to provide communications services or to operate the networks by which those services are provided.

37. "Numbering space" is the full set of numbers used in electronic communications.

38. (Amended, SG No. 17/2009, SG No. 20/2021) "Emergency call center" is the physical place where the emergency calls are initially received, which is under the responsibility of a centre for receipt of emergency calls to the Single European Emergency Number "112" within the meaning of Article 7 from the Act on the National Emergency Call System Employing the Single European Number "112".

39. (Amended, SG No. 105/2011, effective 29.12.2011) "Public electronic communications network" shall be an electronic communications network used wholly or mainly for the provision of public electronic communications services allowing the transfer of information between network termination points.

40. "Public electronic communications services" are electronic communications services available to the general public.

41. (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) "Voice communications service" is a public electronic communications service for originating and receiving, directly or indirectly, national or national and international calls through a number or numbers in a national or international numbering plan

42. "Interoperability of services" is the capacity of electronic communications networks to interoperate effectively in order to ensure access for users to the services provided over these networks.

42a. (New, SG No. 20/2021) "Operator" is an undertaking providing or authorised to provide a public electronic communications network or an associated facility

43. (Supplemented, SG No. 17/2009, amended, SG No. 20/2021) "Scarce resource" is the resource limited by natural conditions or for technical reasons: numbering resources, radio frequency spectrum and positions of the geostationary orbit with the corresponding radio frequency spectrum.

43a. (New, SG No. 20/2021) "Package of services" within the meaning of Section IV of Chapter Fourteen includes two or more independent electronic communications services (mobile voice service, mobile internet access, each such service being provided by different numbers, fixed voice service, fixed internet access, television and/or others) offered by an undertaking together at a common price.

43b. (New, SG No. 20/2021) "Package of services and terminal equipment" within the meaning of Section IV of Chapter Fourteen includes a package of services offered together with terminal equipment at a common price.

44. (Amended, SG No. 20/2021) "Provision of an electronic communications network" is the establishment, operation, control or making available of such a network.

45. (Amended, SG No. 20/2021) "Retail services market" is a market for the provision of services to end-users.

46. (Amended, SG No. 20/2021) "Wholesale services market" is a market on which services are provided for third parties which provide or intend to provide services to end-users.

47. (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) "Call" is a connection established by means of a public interpersonal communications service allowing two-way voice communications.

48. "Repeated violation" shall be a violation which is committed within one year after the entry into effect of the penalty decree whereby a penalty has been imposed for the same type of violation.
- 48a. (New, SG No. 20/2021) "User" is a legal or natural person using or having applied for the use of a public electronic communications service.
49. (Amended and supplemented, SG No. 20/2021) "Consumer" is a natural person using or having applied for the use of a public electronic communications service for purposes beyond the scope of his/her occupation, business, service or profession.
50. (Amended, SG No. 20/2021) "Undertaking" is any natural person, sole trader or legal entity, implementing electronic communications under the terms of this Act.
51. (Amended, SG No. 20/2021) "Undertaking with significant market power" is an undertaking which, independently or jointly with other undertakings, enjoys a position equivalent to dominance, i.e. a position of economic strength affording it the power to behave to an appreciable extent independently of competitors, users and end-users.
- 51a. (New, SG No. 20/2021) "Associated service" is a service associated with an electronic communications network or an electronic communications service which enables or supports the provision, self-provision or automated-provision of services via that network or service, or has the potential to do so, and includes number translation or systems offering equivalent functionality, conditional access systems and electronic programme guides (EPGs), as well as other services such as identity, location and presence service.
- 51b. (New, SG No. 20/2021) "Associated facilities" are associated services, physical infrastructures and other facilities or elements associated with an electronic communications network or an electronic communications service which enable or support the provision of services via that network or service, or have the potential to do so, and include buildings or entries to buildings, building wiring, antennae, towers and other supporting constructions, ducts, conduits, masts, manholes, and cabinets.
52. (Amended, SG No. 20/2021) "Interception" is an activity of obtaining access to and providing electronic communications of a specific end-user and the data related to the calls of the said end-user, to the competent authorities covered under Article 20 (1) of the Special Intelligence Means Act, performed on the basis of legal authorization.
53. (Amended, SG No. 17/2010, effective 10.05.2010) "Interception interface" is a system of a monitoring centre and other input-output software and hardware of an undertaking implementing electronic communications, where access to the intercepted electronic communications or to the data related to the call is provided.
54. (Supplemented, SG No. 37/2009, effective 19.05.2009, amended, SG No. 20/2021) "Broadcasting" shall be the emission by radio transmitters of radio or television signals intended for reception by an infinite number of consumers.
55. "Radio service" shall be a totality of technical and organizational rules in the transmission, emission and/or reception of communications over radio waves for the various specific cases of implementation of electronic communications.
56. (Amended, SG No. 103/2016) "Radio equipment" shall be an electrical or electronic product designed to emit and/or receive radio waves for the purpose of radio communication and/or radiodetermination, or an electrical or electronic product which must be additionally equipped with an accessory, such as antenna, so as to intentionally emit and/or receive radio waves for the purpose of radio communication and/or radiodetermination.
- 56a. (New, SG No. 103/2016) "Radio communication" shall mean communication by means of radio waves.
- 56b. (New, SG No. 103/2016) "Radiodetermination" means the determination of the position, velocity and/or other characteristics of an object, or the obtaining of information relating to those parameters, by means of the propagation properties of radio waves.
57. (Amended, SG No. 103/2016) "Radio spectrum" includes radio waves in frequencies below 3,000 GHz. Radio waves shall be electromagnetic waves propagated in space without artificial guide.
58. "Radio frequency band" shall be a part of the radio spectrum limited by two frequencies.

58a. (New, SG No. 105/2011, effective 29.12.2011, amended, SG No. 20/2021) "Radio spectrum allocation" is the designation of a given radio spectrum band for use by one or more types of radio communications services, where appropriate, under specified conditions.

59. "Cost oriented prices" shall be such service prices which include the costs incurred in providing the services, taking into account the investments and investment risk, as well as a reasonable rate of return on the capital employed.

60. "Region" shall be two or more neighbouring nucleated settlements.

61. (Amended, SG No. 20/2021) "Roaming" shall be a service on a mobile network, which allows for an end-user – party to a contract with an undertaking providing public electronic communications services over public mobile electronic networks, to use the main services offered by the said undertaking, as well as, depending on the technical capacities, all or some of the additional services and calling regimes in the networks of another undertaking providing public electronic communications services over public mobile electronic networks.

62. (Amended, SG No. 105/2011, effective 29.12.2011) "Full unbundled access to the local loop" shall be the provision of access to the local loop or local sub-loop by an undertaking having significant market power, allowing the use of the full capacity of the network infrastructure.

63. (Amended, SG No. 20/2021) "Security of networks and services" is the ability of electronic communications networks and services to resist, at a given level of confidence, any action that compromises the availability, authenticity, integrity or confidentiality of those networks and services, of stored or transmitted or processed data, or of the related services offered by, or accessible via, those electronic communications networks or services.

64. "Systematic violation" shall be in evidence where three or more administrative violations of this Act or of the instruments on the application thereof have been committed within two years.

64a. (New, SG No. 20/2021) "Emergency Services" shall be a national emergency service under Article 19 of the Act on the National Emergency Call System Employing the Single European Number "112" which provides immediate and rapid assistance in situations where there is a direct threat to human life, health and safety of an individual or society, private or public property or for the environment.

64b. (New, SG No. 20/2021) "Spectrum sharing" shall mean access by two or more users to the same radio frequency bands with a view to their use in accordance with a specific sharing agreement, authorized on the basis of a general authorization, individual rights to use radio spectrum or a combination thereof, including regulatory approaches, such as shared access when an individual spectrum right is granted, in order to facilitate the shared use of a radio frequency band in a binding agreement for all parties concerned under the shared use rules included in their rights of use of radio frequency spectrum in order to ensure predictable and reliable sharing agreements for all users and without prejudice to the application of competition law.

65. "Structural barriers to market entry" shall be barriers resulting from the necessary initial costs or demand conditions and discriminating in favour of undertakings with significant market power and against new market entrants, thus preventing or impeding the market entry of the latter.

66. (Amended, SG No. 105/2011, effective 29.12.2011) "Shared access to the local loop" shall be the provision of access to the local loop or local sub-loop by an undertaking having significant market power to another undertaking, allowing the use of a specified part of the capacity of the network infrastructure such as a part of the frequency band.

66a. (New, SG No. 105/2011, effective 29.12.2011) "Joint significant market power" shall be a situation in which two or more undertakings, operating in one and the same market which is characterized by a lack of effective competition and in which no single undertaking has significant market power, can have a significant impact on the said market even in the absence of structural or other links between them.

67. "Co-location" shall be the provision of physical space and technical means necessary to accommodate and connect the relevant equipment of an undertaking obligated to provide the service to another undertaking.

68. (Amended, SG No. 20/2021) "Communication" is any information, exchanged or conveyed between a finite number of persons by means of a public electronic communications service. This does not include any information conveyed as part of a broadcasting service to the public over an electronic communications network, except to the extent that the information is related to an identifiable end-user receiving the information.

69. "Material violation" is any violation which prevents the attainment of the purposes covered under Article 4 herein and which has or could result in adverse consequences for the normal functioning of the electronic communications market.

69a. (New, SG No. 103/2016) "Systematic non-payment" within the meaning of Item 3 of Article 117 (1) shall be in evidence where the following have not been paid for:

a) (amended, SG No. 20/2021) annual fee for use of a scarce resource for a period exceeding two quarters;

b) (amended, SG No. 20/2021) one-time fee for the granting of an authorization and/or a fee for modifications and supplements to an authorization for use of scarce resource for a period exceeding three months from the date of granting and/or modification and supplementation of the authorization.

69b. (New, SG No. 20/2021) "Substantial modifications and supplements to an authorization" are modifications that substantially change the nature of individual rights of use and may create a competitive advantage for the undertaking over other undertakings.

70. (Amended, SG No. 20/2021) "Enquiry services" are electronic communications services enabling an end-user to obtain a telephone number and other information through submitted individualizing data: name and, where necessary, address.

70a. (New, SG No. 20/2021) "Small-area wireless access point" is low-power wireless network access equipment of a small size operating within a small range, using licenced radio spectrum or licence-exempt radio spectrum or a combination thereof, which may be used as part of a public electronic communications network, which may be equipped with one or more low visual impact antennae, and which allows wireless access by users to electronic communications networks regardless of the underlying network topology, be it mobile or fixed.

70b. (New, SG No. 105/2011, effective 29.12.2011, previous Item 70a, amended, SG No. 20/2021) "Transnational markets" are markets identified by a Decision of the European Commission which cover the European Union or a substantial part thereof and are located in more than one Member State of the European Union.

71. "Traffic data" shall be data processed for the purpose of the conveyance of a communication on an electronic communications network or needed for the billing of the said communication.

72. (Amended, SG No. 20/2021) "Conditional access system" is any technical measure, authentication system or arrangement whereby access to a protected radio or TV broadcasting service in intelligible form is made conditional upon subscription or another form of prior individual authorisation.

72a. (New, SG No. 20/2021) "Internet access service" is a public electronic communications service that provides access to the internet, and thereby connectivity to virtually all end points of the internet, irrespective of the network technology and terminal equipment used.

72b. (New, SG No. 20/2021) "Total conversation service" is a multimedia real time conversation service that provides bidirectional symmetric real time transfer of motion video, real time text and voice between users in two or more locations

73. (Amended, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) "Value added service" is any service for which the user pays the undertaking a price for use of the relevant electronic communications service inclusive of the price for content.

74. (Amended, SG No. 69/2008, SG Mo.20/2021) "Emergency call" is a call received through interpersonal communication services between an end-user and an emergency call center, for the purpose of requesting and obtaining urgent assistance from the emergency services. Emergency calls include not only voice communications services but also text messaging, video messaging, or other types of communications services.

74a. (New, SG No. 20/2021) "Information society services" are the services within the meaning of Article 1 (3) and Items 1 - 3 of § 1 of the supplementary provisions of the Electronic Commerce Act.

75. (Amended, SG No. 20/2021) "Conditional access device" is any equipment or software designed or adapted to give access to a protected service in an intelligible form.

76. (Amended, SG No. 20/2021) "Enhanced digital television equipment" are set-top boxes intended for connection to television sets or integrated digital television sets, able to receive digital interactive television services.

77. (Amended, SG No. 20/2021) "Fixed voice communications service" is a voice communications service of a definite quality, provided between fixed termination points over a public electronic communications network.

77a. (New, SG No. 20/2021) "Harmonised radio spectrum" is radio spectrum for which harmonised conditions relating to its availability and efficient use have been established by way of technical implementing measures in accordance with Article 4 of Decision No 676/2002/EC.

77b. (New, SG No. 20/2021) "Persons with disabilities" are the persons within the meaning of Item 1 of § 1 of the Supplementary Provision of the Persons with Disabilities Act.

78. (Amended, SG No. 20/2021) "Price squeeze" is a situation restricting competition, where a service provider is unable to offer users profitable services already offered on the relevant market by the undertaking that has provided its network for this purpose, by applying a very small margin between the wholesale and the retail service prices.

79. "Price package" shall be a package of two or more services, whose prices are different from the prices of each of the services if the same services are provided outside the package.

79a. (New, SG No. 105/2011, effective 29.12.2011, SG No. 20/2021) "Local sub-loop" shall be the part of the local loop connecting a network termination point to a concentration point or another intermediate access point in the fixed public electronic communications network.

80. (Repealed, SG No. 20/2021).

81. "Legal or regulatory barriers to market entry" shall be barriers which are not based on economic conditions but arise from legislative, administrative or other state measures which, in some degree, restrict the market access of potential competitors or their future behaviour.

82. (New, SG No. 17/2009) "Accounting separation" shall be keeping separate accounts for the activities associated with the provision of electronic communications networks or services.

83. (New, SG No. 17/2009, amended, SG No. 20/2021) "End-user identification data" are: for natural persons: forename, patronymic and surname, Personal Identity Number and permanent address, and for non-residents: Personal Number, for legal persons and sole trader natural persons: business name, registered office, address of the place of management and relevant identification code.

84. (New, SG No. 17/2009, amended, SG No. 20/2021) "End-user ID" is a unique identifier allocated to persons when they subscribe to or register with an Internet access service or with an Internet electronic communications service.

§ 1a. (New, SG No. 17/2009, supplemented, SG No. 27/2010, effective 9.04.2010, repealed, SG No. 29/2015).

## **TRANSITIONAL AND FINAL PROVISIONS**

§ 2. The Telecommunications Act (promulgated in the State Gazette No. 88 of 2003; amended in Nos. 19, 77, 88, 95, 99 and 105 of 2005, Nos. 17, 29, 34, 51, 59 and 82 of 2006) is hereby superseded.

§ 3. (1) (Amended, SG No. 105/2011, effective 29.12.2011) The undertakings which provide the service of radio and television distribution over cable and satellite electronic communications services shall distribute, free of charge in real time, the national and regional programme services of the Bulgarian National Television and of the Bulgarian National Radio until the obligations are reviewed according to the procedure established by Paragraph (7).

(2) (Repealed, SG No. 37/2009, effective 19.05.2009).

(3) (Amended, SG No. 12/2010, repealed, SG No. 105/2011, effective 29.12.2011).

(4) (New, SG No. 12/2010) Any undertakings, which have been granted an authorization for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over electronic communications networks for digital terrestrial broadcasting, and which distribute the programme services of the Bulgarian National Radio and the Bulgarian National Television, shall be obligated to ensure the distribution of the said programme services on the basis of contracts at prices covering the necessary costs incurred for this activity and allowing a profit which would accrue to an unrelated party in the practice of identical business.

(5) (New, SG No. 12/2010, amended, SG No. 105/2011, effective 29.12.2011) In case the undertakings fail to reach agreement with the Bulgarian National Radio and the Bulgarian National Television on the prices under Paragraph (4), the prices shall be determined by the Communications Regulation Commission.

(6) (New, SG No. 105/2011, effective 29.12.2011) For the purpose of guaranteeing the distribution of the public radio and television programme services, the undertaking which acquires from the Bulgarian Telecommunications Company the necessary facilities and infrastructure ensuring the analogue terrestrial broadcasting and conveyance of the programme services of the Bulgarian National Television and the Bulgarian National Radio shall be obligated to distribute the said programme services in a quality manner on the basis of a contract at prices covering the necessary costs incurred for this activity and allowing a profit which would accrue to an unrelated party in the practice of identical business. Upon subsequent transfer of the facilities and infrastructure ensuring the analogue terrestrial broadcasting and conveyance of the programme services of the Bulgarian National Television and the Bulgarian National Radio, the obligation for distribution shall pass to the undertaking which has acquired the relevant infrastructure.

(7) (New, SG No. 105/2011, effective 29.12.2011) The Commission shall review the obligations imposed on the undertaking for conveyance of radio and television programme services according to the procedure established by this Act and by the Radio and Television Act not later than the 25th day of May 2013.

§ 4. (1) The Radio and Television Act shall be brought into conformity with this Act within six months after the entry of this Act into force.

(2) (Repealed, SG No. 37/2009, effective 19.05.2009).

(3) (Repealed, SG No. 37/2009, effective 19.05.2009).

§ 5. (1) (Redesignated from § 5, SG No. 17/2005) Authorizations for an individually assigned scarce resource - radio spectrum for analogue terrestrial television broadcasting shall be granted until the 31st day of December 2008 for a maximum period of applicability until the 31st day of December 2012.

(2) (New, SG No. 17/2009) Until the granting of authorizations for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over electronic communications networks for digital terrestrial broadcasting within a national range according to the procedure established by this Act, the Communications Regulation Commission may grant authorizations for use of an available scarce resource - radio spectrum, which has not been allocated according to the procedure established by § 9a of the Transitional and Final Provisions of the Radio and Television Act, to television broadcasters registered according to the procedure established by the Radio and Television Act.

(3) (New, SG No. 17/2009) The authorizations referred to in Paragraph (2) shall be granted according to a procedure established in rules adopted by the Communications Regulation Commission.

(4) (New, SG No. 17/2009) An authorization referred to in Paragraph (2) shall be granted after receipt of a favourable opinion from the Council for Electronic Media.

(5) (New, SG No. 17/2009) The authorizations referred to in Paragraph (2) may be terminated where the individually assigned scarce resource - radio spectrum, used by the undertakings, is necessary for implementation of the relevant stage of establishment of a digital electronic communications network.

**§ 5a.** (New, SG No. 17/2009) (1) (Declared unconstitutional by the Constitutional Court of the Republic of Bulgaria in respect of the words "single" [procedure] and "single" [undertaking] - SG No. 45/2009)

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Within the framework of a single procedure under Article 48 (1) herein, the Communications Regulation Commission shall designate a single undertaking whereto the said Commission shall grant an authorization for use of the individually assigned scarce resource - radio spectrum, for implementation of electronic communications over electronic communications networks for digital terrestrial broadcasting within a national range in conformity with the provisions for the First Stage of the Plan for Introduction of Digital Video Broadcasting - Terrestrial (DVB-T) in the Republic of Bulgaria, adopted by the Council of Ministers.

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(2) Simultaneously with the procedure referred to in Paragraph (1), the Communications Regulation Commission, complying with the requirements of this Act and of the procedure provided for in Chapter Five herein, shall initiate a contest procedure for selection of an undertaking eligible to obtain an authorization for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over electronic communications networks for digital terrestrial broadcasting within a national range in conformity with the provisions for the Second Stage of the Plan for Introduction of Digital Video Broadcasting - Terrestrial (DVB-T) in the Republic of Bulgaria, adopted by the Council of Ministers.

(3) The undertaking whereto the authorizations referred to in Paragraphs (1) and (2) are granted may not be related parties within the meaning given by the Commerce Act.

**§ 5b.** (New, SG No. 17/2009) (1) Within one month after conclusion of the procedure referred to in § 5a (1) herein, the Communications Regulation Commission shall successively initiate contests for the granting of authorizations for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over electronic communications systems for digital terrestrial broadcasting within a regional range in conformity with the provisions for the First Stage of the Plan for Introduction of Digital Video Broadcasting - Terrestrial (DVB-T) in the Republic of Bulgaria, adopted by the Council of Ministers.

(2) Within the framework of the contest referred to in Paragraph (1), one authorization per region shall be granted to a single undertaking for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over electronic communications networks for digital terrestrial broadcasting for the relevant region.

**§ 5c.** (New, SG No. 17/2009) (1) (Redesignated from § 5c, SG No. 37/2009, effective 19.05.2009) The authorizations for use of an individually assigned scarce resource - radio spectrum, through use of existing and/or new electronic communications networks for analogue terrestrial broadcasting, granted by the Communications Regulation Commission, shall be terminated where the individually assigned scarce resource - radio spectrum, used by the undertakings, is necessary for implementation of the relevant stage of establishment of a digital electronic communications network conforming to an authorization granted by the Communications Regulation Commission for use of an individually assigned resource - radio spectrum, for implementation of electronic communications over electronic communications networks for digital terrestrial broadcasting within a national and/or regional range.

(2) (New, SG No. 37/2009, effective 19.05.2009) Any television programme services created for distribution by television broadcasters holding authorizations for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over an electronic communications network for analogue terrestrial broadcasting of television signals within a national range, granted by the Communications Regulation Commission and expiring after 2010, shall be distributed simultaneously over electronic communications networks for analogue terrestrial broadcasting and for digital terrestrial broadcasting.

(3) (New, SG No. 37/2009, effective 19.05.2009) Analogue distribution shall cease simultaneously for all programme services referred to in Paragraph (2) when the population coverage of the electronic communications network for digital terrestrial broadcasting reaches the population coverage ensured over the electronic communications network for analogue terrestrial broadcasting.

**§ 5d.** (New, SG No. 17/2009) (1) Not later than the 1st day of March 2009, a law shall be adopted ensuring the individually assigned scarce resource necessary for distribution of the public radio and television programme services of the Bulgarian National Television and the Bulgarian National Radio.

(2) The law referred to in Paragraph (1) shall determine the conditions for guaranteeing the public nature of the Bulgarian National Television and the Bulgarian National Radio.

**§ 6.** (1) The obligation referred to in Items 1 and 2 of Article 134 (1) herein shall apply in respect of fixed networks as from the 1st day of January 2009, and the obligation referred to in Item 3 of Article 134 (1) herein shall apply in respect of fixed networks as from the 1st day of January 2007.

(2) The provision under Item 2 of Article 135 (1) herein shall not apply to analogue telephone lines.

**§ 7.** The obligations imposed according to the procedure established by the Telecommunications Act as superseded on operators with significant market power, related to access and interconnection, co-location and shared use of premises and facilities, specific access, access to local loops, carrier selection, provision of leased lines and of a universal telecommunication service, shall subsist until the entry into effect of the decisions of the Commission whereby specific obligations are imposed on undertakings designated as having significant market power on the relevant market according to the procedure established by this Act.

**§ 8.** The members of the Communications Regulations Commission at the date of entry into force of this Act shall complete the term of office thereof.

**§ 9.** (1) The operators which carry out telecommunication activity at the date of entry into force of this Act on the basis of an individual licence or registration under a general licence, whereas this Act rules that the implementation of electronic communications is related to the submission of a notification, shall be entered ex officio in the register referred to in Item 1 of Article 33 (1) herein by the Commission within six months after the entry into force of this Act.

(2) The persons referred to in Paragraph (1) shall implement electronic communications until entered in the register on the basis of an individual licence issued thereto and in compliance with the conditions of the general licence whereunder the said persons are registered.

(3) The operators which, upon the entry into force of this Act, carry out telecommunication activity on the basis of an individual licence, whereas this Act rules that the electronic communications implemented by the said operators are related to the granting of an authorization, shall be granted the relevant authorization by the Commission ex officio within six months after the entry into force of this Act. Until the granting of the said authorization, electronic communications shall be provided on the basis of the individual licences as issued to the said operators.

(4) In case of a request to the Commission received within the six months time limit under Paragraphs (1) and (3) for provision of a supplementary scarce resource or for modification of the individual licence in respect of the individually assigned scarce resource provided, the Commission shall pronounce on any such request according to the procedure and within the time limits provided for in this Act, except in the cases where conduct of a competitive procedure is required for the provision of an individually assigned scarce resource.

(5) The annual fees due under the individual licences referred to in Paragraphs (1) and (3) shall be paid at the amounts and within the time limits specified in the relevant individual licences until termination of the validity of the said licences, depending on the period during which the activity was carried out on the basis of the said licences.

(6) An administrative annual control fee, referred to in Item 1 of Article 139 (2) herein, shall be due as from the entry in the register referred to in Item 1 of Article 33 (1) herein, and an annual fee for use of an individually assigned scarce resource, referred to in Article 140 (1) herein, shall be paid proportionately to the period for use of the said resource in accordance with the authorization as granted.



**§ 10.** The operators, which have carried out telecommunications freely under the terms established by the Telecommunications Act as superseded and in respect of which this Act requires that they provide electronic communications after submission of a notification, shall be obligated to send a notification under Article 66 herein to the Commission within three months after the entry into force of this Act.

**§ 11.** (1) Any initiated procedures for the issuance of an individual licence, where the resource is scarce and this Act rules that the implementation of electronic communications is related to the granting of an authorization, shall be completed in accordance with the provisions of this Act, with the applications for the issuing of individual licences being treated as applications within the meaning given by Article 83 herein.

(2) Within thirty days after the entry into force of this Act, the applicants shall bring the applications thereof into conformity with the requirements covered under Article 83 herein.

(3) A fee referred to in Item 4 of Article 139 (2) herein shall not be due in the cases referred to in Paragraph (1).

**§ 12.** (1) Any submitted applications for registration under a general licence, where this Act rules that the implementation of electronic communications is related to the submission of a notification, shall be treated as notifications within the meaning given by Article 66 herein.

(2) Within thirty days after the entry into force of this Act, the applicants shall bring the notifications thereof into conformity with the requirements covered under Article 66 herein.

**§ 13.** The provisions of Chapter Seventeen shall furthermore apply in respect of the electronic communications infrastructure established before the entry into force of this Act.

**§ 14.** In the 2007 Public Social Insurance Budget Act ([promulgated in the] State Gazette No. 105 of 2006), in Annex 1, on a row sequential number 59, in column "Description of economic activity," and in Annex 2, the word "telecommunications" shall be replaced by "electronic communications".

**§ 15.** In the Civil Aviation Act (promulgated in the Official Gazette No. 94 of 1972; amended and supplemented in No. 30 of 1990, No. 16 of 1997, No. 85 of 1998, No. 12 of 2000, Nos. 34 and 111 of 2001 and Nos. 52 and 70 of 2004, Nos. 88 and 102 of 2005, Nos. 30, 36, 37, 105 and 108 of 2006, No. 10 of 2007), there shall be inserted a new Article 16f to read as follows:

"Article 16f. The Minister of Transport or an official authorized thereby:

1. shall issue certificates of licensed capacity to the radio operators of the aeronautical mobile radio service and the aeronautical mobile-satellite radio service, shall issue authorizations for use of aircraft radio stations, and shall keep public registers of the certificates and authorizations as issued;
2. shall carry out international coordination of radio frequencies and radio frequency bands, as well as of the technical characteristics of the radio equipment which uses the said frequencies and bands for the following radio services: aeronautical mobile, aeronautical mobile-satellite, aeronautical radio navigation, and aeronautical radio navigation-satellite;
3. shall assign for use the allocated radio call signs for identification of the aircraft radio stations and shall keep a register of the said call signs under terms and according to a procedure established in an ordinance of the Minister of Transport on the allocation of radio call signs in the Republic of Bulgaria according to the requirements of the International Telecommunication Union."

**§ 16.** The Value Added Tax Act (promulgated in the State Gazette No. 63 of 2006; amended in Nos. 86, 105 and 108 of 2006) shall be amended as follows:

1. In Item 1 (a) of Article 3 (5), the word "telecommunications" shall be replaced by "electronic communications";

2. In Article 21:

(a) in Item 2 (h) of Paragraph (3), the word "telecommunications" shall be replaced by "electronic communications";

(b) in Paragraph (4), the words "supply of telecommunications" shall be replaced by "provision of electronic communications".

3. In § 1 of the Supplementary Provision, Item 13 shall be amended to read as follows:

"13. "Electronic communications services" shall be electronic communications services within the meaning given by the Electronic Communications Act. Electronic communications services shall furthermore include a transfer or cession of a right to use the capacity for conveyance, emission, transmission or reception or the provision of access to global information networks."

**§ 17.** In the Act on Access and Disclosure of Records and on Declaration of Affiliation of Bulgarian Citizens to State Security and the Intelligence Services of the Bulgarian People's Army ([promulgated in the] State Gazette No. 102 of 2006), in Item 11 of Article 3 (2), the words "telecommunications operators" shall be replaced passim by "undertakings implementing electronic communications".

**§ 18.** In the State Ownership Act (promulgated in the State Gazette No. 44 of 1996; amended in No. 104 of 1996, Nos. 55, 61 and 117 of 1997, Nos. 93 and 124 of 1998, No. 67 of 1999, Nos. 9, 12, 26 and 57 of 2000, No. 1 of 2001, [modified by] Constitutional Court Judgment No. 7 of 2001, [promulgated in] No. 38 of 2001; amended in No. 45 of 2002, No. 63 of 2003, Nos. 24 and 93 of 2004, No. 32 of 2005, Nos. 17, 30, 36, 64 and 105 of 2006), in § 1 of the Supplementary Provisions, the word "telecommunications" shall be replaced by "electronic communications".

**§ 19.** The Electronic Commerce Act (promulgated in the State Gazette No. 51 of 2006, amended in No. 105 of 2006) shall be amended as follows:

1. In Item 2 of Article 1 (4), the word "telecommunications" shall be replaced by "electronic communications".
2. In Article 13, the words "telecommunication" and "the telecommunication" shall be replaced passim by "electronic communication".
3. In Article 15, the word "telecommunication" shall be replaced by "electronic communication".

**§ 20.** The Consumer Protection Act (promulgated in the State Gazette No. 99 of 2005; amended in Nos. 30, 51, 53, 59, 105 and 108 of 2006, No. 31 of 2007) shall be amended as follows:

1. In Article 50 (1), Item 2 shall be amended to read as follows:  
"2. concluded with undertakings providing public electronic communications services through public pay telephones;"
2. In Item 3 of Article 169 (1), the word "telecommunications" shall be replaced by "electronic communications".

**§ 21.** In the Disaster Protection Act ([promulgated in the] State Gazette No. 102 of 2006), in Article 30 (2), the words "The telecommunications operators" shall be replaced by "The undertakings implementing electronic communications".

**§ 22.** In the Concessions Act (promulgated in the State Gazette No. 36 of 2006; amended in Nos. 53, 65 and 105 of 2006), in Item 13 of § 1 of the Supplementary Provision, the word "telecommunication" shall be replaced by "electronic communication".

**§ 23.** In the Ministry of Interior Act (promulgated in the State Gazette No. 17 of 2006; amended in Nos. 30, 102 and 105 of 2006, Nos. 11 and 31 of 2007), in Item 6 of Article 112, the words "the licensed telecommunications operators" shall be replaced by "the undertakings providing public electronic communications networks and/or services".

**§ 24.** The Maritime Space, Inland Waterways and Ports of the Republic of Bulgaria Act (promulgated in the State Gazette No. 12 of 2000; amended in No. 111 of 2001, Nos. 24 and 70 of 2004, No. 11 of 2005, [modified by] Constitutional Court Judgment No. 5 of 2005, [promulgated in] No. 45 of 2005; amended in Nos. 87, 88, 94, 102 and 104 of 2005, Nos. 30, 36, 43, 65, 99 and 108 of 2006) shall be amended as follows:

1. In Article 15:
  - (a) in Paragraph (1), the words "authorized long-distance operator" shall be replaced by an "authorized undertaking implementing electronic communications";
  - (b) in Paragraph (2), the word "telecommunications" shall be replaced by "electronic communications".
2. There shall be inserted a new Article 60b to read as follows:  
"Article 60b. The Minister of Transport of an official authorized thereby:

1. shall issue certificates of licensed capacity to the radio operators of the Global Maritime Distress and Safety System of the maritime mobile radio service and the maritime mobile-satellite radio service, to operators of ship radio stations navigating inland waterways, shall issue authorizations for use of radio stations and radar stations on board floating structures, and shall keep public registers of the certificates and authorizations as issued;
2. shall carry out international coordination of radio frequencies and radio frequency bands, as well as of the technical characteristics of the radio equipment which uses the said frequencies and bands for the following radio services: maritime mobile, maritime mobile-satellite, maritime radio navigation, and maritime radio navigation-satellite;
3. shall assign for use the allocated radio call signs for identification of radio stations on board floating structures and water-borne radio stations and shall keep a register of the said call signs under terms and according to a procedure established in an ordinance of the Minister of Transport on the allocation of radio call signs in the Republic of Bulgaria according to the requirements of the International Telecommunication Union."

**§ 25.** In the Act Restricting Administrative Regulations and Administrative Control over Economic Activity (promulgated in the State Gazette No. 55 of 2003; corrected in No. 59 of 2003; amended in No. 107 of 2003, Nos. 39 and 52 of 2004, Nos. 31 and 87 of 2005, Nos. 24, 38 and 59 of 2006, No. 11 of 2007), in the Annex, Item 39 "Telecommunication Activities" shall be deleted.

**§ 26.** In the Environmental Protection Act (promulgated in the State Gazette No. 91 of 2002; corrected in No. 98 of 2002; amended in No. 86 of 2003, No. 70 of 2004, Nos. 74, 77, 88, 95 and 105 of 2005, Nos. 30, 65, 82, 99, 102 and 105 of 2006, No. 31 of 2007), in Article 85 (1), the word "telecommunications" shall be replaced by "electronic communications".

**§ 27.** The Defence and Armed Forces of the Republic of Bulgaria Act (promulgated in the State Gazette No. 112 of 1995; amended in No. 67 of 1996, No. 122 of 1997, Nos. 70, 93, 152 and 153 of 1998, Nos. 12, 67 and 69 of 1999, Nos. 49 and 64 of 2000, No. 25 of 2001, Nos. 1, 40, 45 and 119 of 2002, Nos. 50, 86, 95 and 112 of 2003, Nos. 93 and 111 of 2004, Nos. 27, 38, 76, 88, 102 and 105 of 2005, Nos. 30, 36, 56, 82, 91 and 102 of 2006, No. 11 of 2007), Article 49a shall be amended and supplemented as follows:

1. In Item 1, the words "the postal and the telecommunications" shall be replaced by "the postal and the electronic communications", and after the word "forces" there shall be inserted "and".
2. In Item 2, the word "telecommunications" shall be replaced by "electronic communications".
3. In Item 3, after the words "the maintenance of" there shall be inserted "special defence installations and the installed wartime capacities of the National State Security and Defence Network for Defence Needs", and the text until the end shall be deleted.

**§ 28.** The Postal Services Act (promulgated in the State Gazette No. 64 of 2000; amended in No. 112 of 2001, Nos. 45 and 76 of 2002, No. 26 of 2003, Nos. 19, 88, 99 and 105 of 2005, Nos. 17, 34, 37 and 86 of 2006) shall be amended as follows:

1. In Item 2 of Article 3, the word "telecommunication" shall be replaced by "electronic communication".
2. In Article 64 (2), the words "implementation of the powers vested in the said Agency under Item 4 of Article 15 of the Telecommunications Act" shall be replaced by "projects referred to in Items 1, 6, 9 and 11 of Article 20 of the Electronic Communications Act".

**§ 29.** In the Radio and Television Act (promulgated in the State Gazette No. 138 of 1998; [modified by] Constitutional Court Judgement No. 10 of 1999, [promulgated in] No. 60 of 1999; amended in No. 81 of 1999, No. 79 of 2000, Nos. 96 of 2001, Nos. 77 and 120 of 2002, Nos. 99 and 114 of 2003, Nos. 99 and 115 of 2004, Nos. 88, 93 and 105 of 2005, Nos. 21, 34, 70, 105 and 108 of 2006, No. 10 of 2007), in Article 44, there shall be added new Paragraphs (3) to (5) to read as follows:

"(3) The Bulgarian National Television and the Bulgarian National Radio shall ensure the broadcasting of the national programme services thereof by satellite/satellites within the range of the territories of Europe and other continents where there are citizens of Bulgarian descent according to data of the Agency for Bulgarians Abroad and through their own research.

(4) The resources for execution of the activities referred to in Paragraph (1) shall be provided by the State budget.

(5) The Bulgarian National Television and the Bulgarian National Radio shall provide at no charge the national and regional programme services thereof to undertakings implementing electronic communications through cable electronic communication networks for distribution of radio and television programme services, as well as for satellite and digital terrestrial broadcasting."

**§ 30.** In the Technical Requirements for Products Act (promulgated in the State Gazette No. 86 of 1999; amended in Nos. 63 and 93 of 2002, Nos. 18 and 107 of 2003, Nos. 45, 77, 88, 95 and 105 of 2005, Nos. 30, 62 and 76 of 2006), in Article 27, there shall be added a new Paragraph (5) to read as follows:

"(5) In respect of electronic communication terminal equipment and radio equipment, market surveillance shall be carried out by the Communications Regulation Commission jointly with the Chairperson of the State Agency for Metrological and Technical Surveillance."

**§ 31.** The Sofia Municipality Planning and Building Development Act ([promulgated] in the State Gazette No. 106 of 2006) shall be amended as follows:

1. In Item 9 of Article 13 (1), the word "telecommunications" shall be replaced by "electronic communications".

2. In the Annex, on row 28, column one, the word "telecommunications" shall be replaced by "electronic communications".

**§ 32.** The Spatial Development Act (promulgated in the State Gazette No. 1 of 2001; amended in Nos. 41 and 111 of 2001, No. 43 of 2002, Nos. 20, 65 and 107 of 2003, Nos. 36 and 65 of 2004, Nos. 28, 76, 77, 88, 94, 95, 103 and 105 of 2005, Nos. 29, 30, 34, 37, 65, 76, 79, 82, 106 and 108 of 2006) shall be amended and supplemented as follows:

1. In Article 70 (4), the word "telecommunication" shall be replaced by "electronic communications".

2. In Part One, Chapter Four, in the heading of Section VI, the word "Telecommunication" shall be replaced by "Electronic Communications".

3. In Article 93:

(a) in Paragraphs (1) and (2), the word "telecommunication" shall be replaced by "electronic communications";

(b) in Paragraph (3), the word "telecommunication" shall be replaced "electronic communications".

4. In Article 94, the word "telecommunication" shall be replaced by "electronic communications".

5. In Article 108 (2), the word "telecommunications" shall be replaced by "electronic communications".

6. In Article 137 (1):

(a) in Item 1 (b), the word "telecommunication" shall be deleted;

(b) in Item 2 (b), the word "telecommunication" shall be deleted;

(c) in Item 3:

(aa) in Littera (b), the word "cable" shall be deleted;

(bb) there shall be added a new Littera (h) to read as follows:

"(h) electronic communications networks and facilities, established of a trunk type at a national level;"

(d) in Item 4, there shall be added a new Littera (g) to read as follows:

"(g) electronic communications networks and facilities, established in urbanized areas with high-rise and medium-rise development;"

(e) in Item 5, there shall be added a new Littera (e) to read as follows:

"(e) electronic communications networks and facilities, established in urbanized areas with low-rise development;"

7. In Item 2 of Article 205, the word "telecommunication" shall be replaced by "electronic communications".

8. In Item 31 of § 5 of the Supplementary Provisions, the word "telecommunications" shall be replaced by "electronic communications".

§ 33. The Crisis Management Act (promulgated in the State Gazette No. 19 of 2005; amended in Nos. 17, 30 and 102 of 2006, No. 11 of 2007) shall be amended as follows:

1. In Article 27:

(a) in Paragraph (2), the words "the telecommunications operators" shall be replaced by "the undertakings implementing electronic communications", and the words "the self-contained information networks" shall be replaced by "the information networks for own needs";

(b) in Paragraph (3), the words "The telecommunications operators" shall be replaced by "The undertakings implementing electronic communications", and the words "telecommunications services" shall be replaced by "electronic communications services";

(c) in Paragraph (5), the word "telecommunication" shall be replaced by "electronic communications".

2. In Article 64 (1), the words "the telecommunications networks ensuring the requisite communication links" shall be replaced by "the undertakings providing public electronic communications networks and/or services for operation".

§ 34. (1) The instruments on the application of this Act shall be adopted within six months after the entry into force of this Act.

(2) The instruments of secondary legislation, issued in pursuance of the Telecommunications Act as superseded, shall apply to the extent to which they do not conflict with this Act.

(3) The instruments of secondary legislation, adopted in pursuance of Item 2 of Article 14 (1), Item 15 of Article 27 and Item 11 of Article 28 (1), Article 140 (1) and Article 209 (2) of the Telecommunications Act as superseded, shall be repealed by the Council of Ministers within six months after the entry into force of this Act.

(4) The methodology referred to in Article 150 (2) herein shall be adopted by the Council of Ministers within three months after the promulgation of this Act in the State Gazette.

(5) The documents and information referred to in Article 153 herein shall be presented to the Commission within one month after the adoption of the methodology referred to in Paragraph (4).

(6) The drafts of decisions containing analyses of the relevant markets according to the methodology referred to in Paragraph (4) shall be published for public consultation within three months after expiry of the time limit referred to in Paragraph (3).

(7) The instruction referred to in Article 311 (4) herein shall be issued within one month after the promulgation of this Act in the State Gazette.

This Act was passed by the 40th National Assembly on the 10th day of May 2007 and the Official Seal of the National Assembly has been affixed thereto.

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ACT to Amend and Supplement the Electronic Communications Act  
(SG No. 17/2009, amended, SG No. 24/2015, effective 31.03.2015)

.....  
Transitional and Final Provisions

§ 79. The Chairperson, the Deputy Chairperson and the rights of the Communications Regulation Commission shall retain the rights thereof until expiry of the terms of office under Article 22 (3), (4) and (5) [of the Electronic Communications Act].

§ 80. (1) (Amended, SG No. 24/2015, effective 31.03.2015) As from the 1st day of January 2010, the undertakings providing electronic communications networks and/or services shall be obligated to collect data necessary to identify a user of pre-paid services referred to in Item 1 of Article 251i (1) and Item 2 of Article 251i (5) [of the Electronic Communications Act].

(2) In respect of the users of pre-paid services prior to the 1st day of January 2010, the data referred to in Paragraph (1), necessary to identify any such users, shall be collected according to a procedure and rules adopted by the Communications Regulations Commission not later than the 30th day of September 2009.

§ 81. The undertakings providing mobile public telephone services shall determine the geographic position of end-users calling telephone number "112" with an accuracy of up to 100

metres within the nucleated settlements and with an accuracy of up to 1 kilometre outside the nucleated settlements, depending on the time limits and rules for cost allocation laid down in the applicable Community law.

TRANSITIONAL AND FINAL PROVISIONS to the Public Broadcasting Act  
(SG No. 37/2009, effective 19.05.2009)

.....  
§ 6. The Electronic Communications Act (promulgated in the State Gazette No. 41 of 2007, amended in No. 109 of 2007, Nos. 36, 43 and 69 of 2008 and No. 17 of 2009) shall be amended and supplemented as follows:  
.....

§ 7. Within one month after the entry into force of this Act, the National Assembly shall elect, and the President of the Republic shall appoint, the new members of the Communications Regulation Commission under Item 1 (b) and (c) of § 6 herein. The resolution of the National Assembly and the decree of the President shall enter into force simultaneously on the 1st day of July 2009.

§ 8. This Act shall enter into force as from the day of promulgation thereof in the State Gazette, with the exception of Item 1 of § 6 herein, which shall enter into force as from the 1st day of July 2009.

ACT to Amend and Supplement the Electronic Communications Act  
(SG No. 89/2009, effective 10.11.2009)

.....  
Supplementary Provision

§ 6. In the remaining texts of the Act, the words:

1. "The Chairperson of the State Agency for Information Technology and Communications" shall be replaced by "the Minister of Transport, Information Technology and Communications".
2. "The State Agency for Information Technology and Communications" shall be replaced by "the Ministry of Transport, Information Technology and Communications".
3. "The Ministry of Transport" and "the Minister of Transport" shall be replaced, respectively, by "the Ministry of Transport, Information Technology and Communications" and "the Minister of Transport, Information Technology and Communications".

Transitional and Final Provisions

§ 7. The statutory instruments of secondary legislation, issued before the entry into force of this Act, shall continue in effect insofar as they do not come into conflict with this Act.  
.....

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Ministry of  
Interior Act  
(SG No. 93/2009, effective 25.12.2009)

.....  
§ 78. In the Electronic Communications Act (promulgated in the State Gazette No. 41 of 2007; amended in No. 109 of 2007, Nos. 36, 43 and 69 of 2008, Nos. 17, 35, 37 and 42 of 2009; [modified] by Constitutional Court Judgment No. 3 of 2009, [promulgated in] No. 45 of 2009; amended in No. 82 of 2009), in Item 14 of Article 20 (1), at the end there shall be added "after clearance with the Ministry of Interior".  
.....

§ 100. This Act shall enter into force one month after the promulgation thereof in the State Gazette with the exception of § 1, 2, 21, 36, 39, 41, 44, 45, 49, 50, 51, 53, 55, 56, 57, 59, 62, 63, 64, 65, 70 and 91 herein, which shall enter into force as from the day of promulgation thereof.  
.....

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Radio and  
Television Act  
(SG No. 12/2010)

.....  
§ 89. Within one month after the entry into force of this Act, the Communications Regulation Commission, acting in compliance with the procedure provided for in Chapter Five of the Electronic Communications Act, shall initiate a procedure under Article 48 (1) of the said Act for selection of an undertaking to be granted an authorization for use of an individually assigned scarce resource - radio spectrum, for implementation of electronic communications over an electronic communications network for digital terrestrial television broadcasting intended for distribution of programme services of public service broadcasters, in conformity with the stages and time limits envisaged in the Plan for Introduction of Digital Video Broadcasting - Terrestrial (DVB-T) in the Republic of Bulgaria, adopted by the Council of Ministers.  
.....

ACT to Amend and Supplement the Electronic Communications Act  
(SG No. 17/2010, effective 10.05.2010)

.....  
Supplementary Provision

§ 10. This Act transposes the requirements of Directive 2006/24/EC of the European Parliament and of the Council of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC.

Final Provisions

§ 11. The lists referred to in Article 250d (2) [of the Electronic Communications Act] shall be provided to the Communications Regulation Commission not later than the 10th day of May 2010.

FINAL PROVISIONS to the Act to Amend and Supplement the Electronic Communications Act  
(SG No. 27/2010, effective 9.04.2010)

§ 6. Within 15 days after the entry into force of this Act, the National Assembly shall dismiss the last three elected members of the Commission from the quota of the National Assembly, and the President of the Republic shall dismiss one of the two members of the Commission appointed thereby.  
.....

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Conflict  
of Interest Prevention and Disclosure Act  
(SG No. 97/2010, effective 10.12.2010)

.....  
§ 35. In the Electronic Communications Act (promulgated in the State Gazette No. 41 of 2007; amended in No. 109 of 2007, Nos. 36, 43 and 69 of 2008, Nos. 17, 35, 37 and 42 of 2009; [modified by] Judgment No. 3 of the Constitutional Court of 2009, [promulgated in] No. 45 of 2009; amended, Nos. 82, 89 and 93 of 2009, Nos. 12, 17 and 27 of 2010), the words "Conflict of Interest Prevention and Disclosure Act" shall be replaced passim by "Conflict of Interest and Ascertainment Act".  
.....

ACT to Amend and Supplement the Electronic Communications Act (SG No. 105/2011, effective  
29.12.2011)

.....  
Supplementary Provision

§ 207. This Act transposes the requirements of Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009 amending Directives 2002/21/EC on a common regulatory framework for electronic communications networks and services, 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities, and 2002/20/EC on the authorisation of electronic communications networks and services (OJ, L 337/37 of 18 December 2009), of Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No. 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ, L 337/11 of 18 December 2009), and of Directive 2009/114/EC of the European Parliament and of the Council of 16 September 2009 amending Council Directive 87/372/EEC on the frequency bands to be reserved for the coordinated introduction of public pan-European cellular digital land-based mobile communications in the Community (OJ, L 274/25 of 20 October 2009).

#### Transitional and Final Provisions

§ 208. (1) The authorizations for use of an individually assigned scarce resource which have been granted according to the hitherto effective procedure shall be brought into conformity with the requirements under Chapter Five [of the Electronic Communications Act] within seven months after the promulgation of this Act in the State Gazette.

(2) The time limit referred to in Paragraph (1) may be extended by up to nine months where the application of Paragraph (1) results in a reduction of the rights under the authorizations as granted and provided that the rights of other undertakings are not affected thereby. The Commission shall notify the extension of the time limit to the European Commission and shall state the reasons therefor.

§ 209. (1) Any undertaking, which has been granted an authorization for use of an individually assigned scarce resource - radio spectrum prior to the entry into force of this Act and the said authorization is valid for a period of not less than five years after the date of granting of the authorization and whereon restrictions have been imposed, may submit a request to the Commission for a reassessment of the said restrictions in accordance with Article 130 (2) to (4) [of the Electronic Communications Act].

(2) Before adopting the decision thereof under Paragraph (1), the Commission shall notify the undertaking which has been granted an authorization for use of a scarce resource - radio spectrum of the review of the restrictions of the reassessment of the restrictions, indicating the extent of the right after the reassessment, and shall allow the undertaking a thirty-day time limit to withdraw the request thereof.

(3) If the undertaking withdraws the request, the right to use an individually assigned scarce resource - radio spectrum shall remain unchanged until expiry of the period of validity thereof or until the end of a five-year period after the entry into force of this Act, whichever is the earlier date.

(4) After expiry of the five-year period referred to in Paragraph (1), the Commission shall bring the general requirements and the authorizations granted for use of an individually assigned scarce resource - radio spectrum into conformity with Article 130 (2) to (4) [of the Electronic Communications Act].

(5) Analogue terrestrial television broadcasting shall cease within the territory of the Republic of Bulgaria as from the 1st day of September 2013.

(6) Within three months after the entry into force of this Act, the Council of Ministers shall adopt a plan for introduction of digital video broadcasting - terrestrial (DVB-T) in the Republic of Bulgaria.

(7) The plan referred to in Paragraph (6) shall cover the stages, time limits and conditions for introduction of digital video broadcasting - terrestrial (DVB-T).

(8) The plan for introduction of digital video broadcasting - terrestrial (DVB-T) in the Republic of Bulgaria shall envisage a complex of measures to assist persons with special social needs for



procurement of devices allowing access to radio and television programme services. The range of persons shall be determined on the basis of criteria specified in the plan.

(9) Within three months after the adoption of the plan referred to in Paragraph (6), the competent state bodies jointly with the undertaking referred to in §5a (1) of the Transitional and Final Provisions [of the Electronic Communications Act] shall commence the actions and procedures necessary to inform the population regarding the introduction of digital video broadcasting - terrestrial (DVB-T) in the Republic of Bulgaria. The implementation of the measures for informing the population shall continue for a period at least until the 30th day of November 2013.

(10) Before the date referred to in Paragraph (5) the Commission, complying with the requirements of Chapter Five [of the Electronic Communications Act] shall initiate a procedure for selection of an undertaking to be granted an authorization for use of an individually assigned scarce resource - radio spectrum for implementation of electronic communications over an electronic communications network for digital terrestrial television broadcasting within a national range.

§ 210. The obligations to provide the service of carrier selection, imposed on an undertaking with significant market power on the retail markets, shall subsist until the entry into effect of a decision of the Commission whereby the respective obligation is maintained, amended or withdrawn.

§ 211. The undertakings providing a connection to public electronic communications networks and/or public electronic communications services shall bring the General Conditions thereof of the contract with end-users into conformity with the requirements of Chapter Fourteen [of the Electronic Communications Act] within two months after the day of entry into force of this Act.

§ 212. The provisions of Article 229a [of the Electronic Communications Act] shall apply to the contracts concluded according to the procedure established by Chapter Fourteen [of the Electronic Communications Act] prior to the day of entry into force of this Act.

§ 213. Any administrative penalty proceedings for breach of the requirements of Article 286 [of the Electronic Communications Act], which have been instituted prior to the entry into force of this Act, shall be completed according to the hitherto effective procedure.

§ 214. (1) The Commission shall complete the procedure conducted according to the procedure established in the rules referred to in § 5 (3) of the Transitional and Final Provisions [of the Electronic Communications Act] by granting an authorization for use of an individually assigned scarce resource - radio spectrum which has been declared available but has not been provided according to the procedure established in the rules. The Commission shall grant the authorization to the candidate which was entitled to obtain the said authorization by reason of best indicators of all persons which submitted an application for the granting of an authorization for use of the same scarce resource.

(2) The Commission shall grant the authorization referred to in Paragraph (1) within one month after the entry into force of this Act for a period of use of an individually assigned scarce resource - radio spectrum which is not longer than the period for which the authorizations have been granted in pursuance of § 5 (2) and (3) of the Transitional and Final Provisions [of the Electronic Communications Act].

.....  
§ 220. This Act shall enter into force as from the day of promulgation thereof in the State Gazette.

#### TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Civil Servants Act

(Promulgated, SG No. 38/2012, effective 1.07.2012)

.....  
§ 84. (Effective 18.05.2012 - SG No. 38/2012) Within one month after the promulgation of this Act in the State Gazette:

1. the Council of Ministers shall bring the Classifier of Positions in the Administration into conformity with this Act;

2. the competent authorities shall bring the organic acts of the respective administration into conformity with this Act.

§ 85. (1) The legal relationships with the persons of the administrations under the Radio and Television Act, the Independent Financial Audit Act, the Electronic Communications Act, the Financial Supervision Commission Act, the Access to and Disclosure of the Documents and Announcing the Affiliation of Bulgarian Citizens with the State Security Service and the Intelligence Services of the Bulgarian Popular Army Act, the Criminal Assets Forfeiture Act, the Conflict of Interest Prevention and Ascertainment Act, the Social Insurance Code, the Health Insurance Act, the Agricultural Producers Support Act and the Roads Act shall be settled under the terms established by § 36 of the Transitional and Final Provisions of the Act to Amend and Supplement the Civil Servants Act (State Gazette No. 24 of 2006).

(2) The act on appointment of the civil servant shall:

1. award the lowest rank designated in the Classifier of Positions in the Administration for occupation of the position, unless the servant holds a higher rank;

2. fix an individual monthly basic salary.

(3) The additional resources required for social and health insurance contributions of the persons referred to in Paragraph (2) shall be provided within the limits of the expenditures on salaries, remunerations and compulsory social and health insurance contributions under the budgets of the spending units concerned.

(4) The Council of Ministers shall effect the requisite modifications under the off-budget account of State Fund Agriculture arising from this Act.

(5) The governing bodies of the National Social Security Institute and of the National Health Insurance Fund shall effect the requisite modifications under the respective budgets arising from this Act.

(6) Any unused leaves under the employment relationships shall be retained and shall not be compensated by cash compensations.

§ 86. (1) Within one month after the entry into force of this Act, the individual monthly basic salary of the servant shall be fixed in such a way that the said salary, net of the tax due and the compulsory social and health insurance contributions for the account of the insured person, if they were due, would not be lower than the gross monthly salary received theretofore, net of the compulsory social and health insurance contributions for the account of the insured person, if they were due, and the tax due.

(2) The gross salary referred to in Paragraph (1) shall include:

1. the monthly basic salary or the monthly basic remuneration;

2. supplementary remunerations which are paid constantly together with the monthly basic salary or monthly basic remuneration due and which are contingent solely on the time worked.

§ 87. This Act shall enter into force as from the 1st day of July 2012 with the exception of § 84 herein, which shall enter into force as from the day of promulgation of the Act in the State Gazette.

#### TRANSITIONAL AND CONCLUDING PROVISIONS to the Act Amending and Supplementing the Ministry of Interior Act

(SG No. 44/2012, effective 1.07.2012)

§ 54. (1) The National Police Directorate General, established by this Act shall be successor in title to the assets, liabilities, rights and obligations of the Criminal Police Directorate General and Guarding Police Directorate General.

(2) The procedural representation on pending disputes of Criminal Police Directorate General and Guarding Police Directorate General shall be carried out by the Director of the National Police Directorate General.

§ 55. Upon entry into force of this Act any existing service and employment relationships of civil servants and of individuals engaged under employment relationships at the Criminal Police Directorate General and Guarding Police Directorate General shall be transformed respectively into

service and employment relationships of civil servants and of individuals engaged under employment relationships at the National Police Directorate General.

§ 56. Any lower level normative acts, issued prior to the entry into force of this Act, shall apply pending the issuance of the respective new acts, to the extent they do not run counter to it.

§ 57. The length of service, accumulated under the Civil Servants Act and the Labour Code by the officials under § 64 of the Transitional and Concluding Provisions to the Act Amending and Supplementing the Ministry of Interior Act (SG No. 93/2009) shall be treated as employment with the same employer, respectively appointing body.

.....

**TRANSITIONAL AND FINAL PROVISIONS to the Act on Amendment and Supplement of Spatial Development Act**  
(SG No. 66/2013, effective 26.07.2013)

.....

§ 73. In the Electronic Communications Act (promulgated, SG No. 41/2007, amended, SG No. 109/2007, SG No. 36, 43 and 69/2008, SG No. 17, 35, 37 and 42/2009, Decision No. 3 of the Constitutional Court of the Republic of Bulgaria of 4.06.2009 - SG No. 45/2009, amended, SG No. 82, 89 and 93/2009, SG No. 12, 17, 27 and 97/2010, SG No. 105/2011, SG No. 38, 44 and 82/2012, SG No. 15, 27, 28 and 52/2013) is amended as follows:

.....

2. In other texts of the Act, the words "Ministry of Regional Development and Public Works," "the Minister of Regional Development and Public Works" and "Minister of Regional Development and Public Works" is replaced by "the Ministry Investment Planning", "the Minister of Investment Planning" "Minister of Investment Planning."

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§ 117. This Act shall enter into force as of the day of its promulgation in the State Gazette.

**TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Electronic Communications Act**  
(SG No. 11/2014, effective 7.02.2014)

§ 7. The proceedings that have already started, as of the date of entry into force of this Act, on extending the validity of an authorization for use of individually assigned scarce resource - radio frequency spectrum for Broadband Wireless Access networks (BWA), Fixed Wireless Access networks (FWA), Public Land Mobile networks and land networks capable of providing electronic communications services, shall be completed under this law, whereby a lump-sum fee under Article 143, Paragraph (2), the second sentence.

§ 8. This Act shall enter into force as of the day of its promulgation in the State Gazette, except for § 5, which shall enter into force two months after the promulgation.

**TRANSITIONAL AND CONCLUDING PROVISIONS to the Act to Amend and Supplement the Spatial Development Act**  
(SG No. 98/2014, effective 28.11.2014)

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§ 73. The following amendments shall be introduced in the Electronic Communications Act (promulgated, SG No. 41/2007, amended, SG No. 109/2007, Nos. 36, 43 and 69/2008, Nos. 17, 35, 37 and 42/2009, Constitutional Court Decision No. 3 of 2009 - No. 45/2009, amended, Nos. 82, 89 and 93/2009, Nos. 12, 17, 27 and 97/2010, Nos. 105/2011, Nos. 38, 44 and 82/2012, Nos. 15, 27, 28, 52, 66 and 70/2013, Nos. 11, 53 and 61/2014):

.....

2. In the rest of the text of the Act the words "the Minister of Investment Planning" and "the Ministry of Investment Planning" shall be replaced by "the Minister of Regional Development and Public Works" and "the Ministry of Regional Development and Public Works", respectively.

.....

TRANSITIONAL AND CONCLUDING PROVISIONS to the Act to Amend the Act on the  
Prohibition of Chemical Weapons and on Control of Toxic Chemicals and the Precursors thereof  
(SG No. 14/2015)

.....

§ 50. In the Electronic Communications Act (promulgated in the State Gazette No. 41/2007, amended, SG No. 109 of 2007, Nos. 36, 43 and 69 of 2008, Nos. 17, 35, 37 and 42 of 2009; Judgment No. 3 of the Constitutional Court of 4.06.2009 - SG No. 45/2009; amended, Nos. 82, 89 and 93 of 2009, Nos. 12, 17, 27 and 97 of 2010, No. 105 of 2011, Nos. 38, 44 and 82 of 2012, Nos. 15, 27, 28, 52, 66 and 70 of 2013, Nos. 11, 53, 61 and 98 of 2014) everywhere in the text the words "the Ministry of Economy, Energy and Tourism" shall be replaced by "the Ministry of Economy", respectively.

.....

SUPPLEMENTARY PROVISION to the Act to Amend and Supplement the Electronic  
Communications Act  
(SG No. 29/2015)

§ 11. Paragraph 9 regarding Article 334b contains measures for the implementation of Regulation (EU) No. 531/2012 of the European Parliament and of the Council of 13 June 2012 on the roaming in public mobile communications networks within the boundaries of the Union (OJ L172/10 of 30 June 2012).

TRANSITIONAL AND CONCLUDING PROVISIONS to the State Intelligence Agency Act  
(SG No. 79/2015, effective 1.11.2015)

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§ 21. Throughout the text of the Electronic Communications Act (promulgated in State Gazette No. 41/2007; amended, SG No. 109/2007, No. 36, 43 and 69/2008, No. 17, 35, 37, 42, 45, 82, 89 and 93/2009, No. 12, 17, 27 and 97/2010, No. 105/2011, No. 38, 44 and 82/2012, No. 15, 27, 28, 52, 66 and 70/2013, No. 11, 53, 61 and 98/2014 and No. 14, 23, 24, 29 and 61/2015) the words "National Intelligence Service" are to be replaced by "State Intelligence Agency".

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TRANSITIONAL AND FINAL PROVISIONS to the Counter-Terrorism Act  
(SG No. 103/2016)

.....

§ 14. (1) Consumers under the Electronic Communications Act in whose name there are registered or activated more than 10 telephone numbers for prepaid telephone services, shall have the right, within 6 months after the entry into force of this Act, to inform the undertaking under Article 138d of the Electronic Communications Act which telephone numbers they intend to continue using.

(2) In the event where consumers do not exercise their right within the time period specified, the undertakings under Article 138d of the Electronic Communications Act have the obligation to deactivate (discontinue) all telephone numbers for prepaid telephone services, registered and/or activated in the name of the respective consumer.

§ 15. (1) Any undertakings referred to in Article 138d of the Electronic Communications Act shall be obliged to inform their consumers of prepaid telephone services of their right under § 14, as well as of the consequences on non-exercise of that right.

(2) The information campaign of the undertakings under Article 138d of the Electronic Communications Act shall be carried out within 4 months after the entry into force of this Act with the use of:

1. a short text message or a call and a publication on the website of the undertaking – for undertakings, providing public telephone services through mobile terrestrial networks;

2. a phone call and a publication on the website of the undertaking – for undertakings, providing public telephone services through fixed networks.

.....

SUPPLEMENTARY PROVISION to the Act to Amend and Supplement the Electronic  
Communications Act  
(SG No. 103/2016)

§ 20. This Act:

1. provides for measures for implementation of Regulation (EU) No. 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No. 531/2012 on roaming on public mobile communications networks within the Union;
2. introduces the requirements of Article 7 of Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ, L 153/62 of 22.5.2014).

TRANSITIONAL AND FINAL PROVISIONS to the Counter-Corruption and Unlawfully Acquired  
Assets Forfeiture Act  
(SG No. 7/2018)

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§ 47. The Electronic Communications Act (promulgated in the State Gazette No. 41 of 2007; amended in No. 109 of 2007, Nos. 36, 43 and 69 of 2008, Nos. 17, 35, 37, 42 of 2009; [modified by] Constitutional Court Decision No. 3 of 2009, [promulgated in] No. 45 of 2009; amended in Nos. 82, 89 and 93 of 2009, Nos. 12, 17, 27 and 97 of 2010, No. 105 of 2011, Nos. 38, 44 and 82 of 2012, Nos. 15, 27, 28, 52, 66 and 70 of 2013, Nos. 11, 53, 61 and 98 of 2014, No. 14 of 2015; [modified by] Constitutional Court Decision No. 2 of 2015, [promulgated in] No. 23 of 2015; amended in Nos. 24, 29, 61 and 79 of 2015, Nos. 50, 95, 97 and 103 of 2016 and Nos. 58 and 85 of 2017) shall be amended and supplemented as follows:

.....

3. In the Act, the words "the Conflict of Interest Prevention and Ascertainment Act" shall be replaced passim by "the Counter-Corruption and Unlawfully Acquired Assets Forfeiture Act".

.....

TRANSITIONAL AND FINAL PROVISIONS to the Electronic Communications Networks and  
Physical Infrastructure Act  
(SG No. 21/2018, effective 9.03.2018)

.....

§ 11. (1) The instruments on the application of this Act and the list referred to in Article 87 herein shall be adopted within six months after the entry into force of this Act.

(2) The statutory instruments of secondary legislation which have been issued on the basis of Chapter Seventeen of the Electronic Communications Act as hereby repealed shall apply to the extent that the said instruments do not contravene this Act. Until the entry into force of the methodology referred to in Article 3 (5) herein, network operators shall form prices respecting the principles referred to in Article 3 (6) herein.

(3) Within one month from the entry of this Act into force, the Minister of Transport, Information Technology and Communications shall take the necessary steps for the establishment of the Single Information Point.

(4) Public sector bodies which, by reason of the tasks thereof, hold information in electronic format under Article 4 (2) and Article 39 herein on physical infrastructure of the network operators, shall

make the said information available to the Single Information Point within three months from the entry into force of this Act.

(5) Network operators shall make the minimum information referred to in Article 7 (2) herein, which they hold in electronic format, available to the Single Information Point within three months from the entry into force of this Act.

(6) The information referred to in Article 4 (4) herein shall be made available to the Single Information Point within six months from the entry into force of this Act.

.....

TRANSITIONAL AND FINAL PROVISIONS to the Act on the Measures and Actions during the  
State of Emergency Declared by a Resolution of the National Assembly of 13 March 2020  
(SG No. 28/2020, effective 13.03.2020)

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§ 42. In 2020, upon preparation of the annual financial statements for 2019, the signatures referred to in Article 25 (2) and (4) of the Accountancy Act may be electronic signatures within the meaning given under Article 13 of the Electronic Document and Electronic Trust Services Act. Where all signatures on the annual financial statement and the audit report are electronic signatures, the registered auditor shall not be required to affix the professional seal thereof. In such case, the registration number of the auditor in the register referred to in Article 20 of the Independent Financial Audit Act shall be stated in the annual financial statement and the audit report.

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§ 52. This Act shall enter into force on the 13th day of March 2020 with the exception of Article 5, § 3, § 12, § 25 – 31, § 41, § 49 and § 51 which shall enter into force as from the day of the promulgation of this State Gazette and shall be applicable until the abrogation of the state of emergency.

FINAL PROVISIONS to the Act on Amendment and Supplement of Spatial Development Act  
(SG No. 62/2020, amended, SG No. 20/2021)

§ 8. The Electronic Communications Act (promulgated in the State Gazette No. 41 of 2007; amended in No. 109 of 2007, Nos. 36, 43 and 69 of 2008, Nos. 17, 35, 37, 42 of 2009; [modified by] Constitutional Court Decision No. 3 of 2009, [promulgated in] No. 45 of 2009; amended in Nos. 82, 89 and 93 of 2009, Nos. 12, 17, 27 and 97 of 2010, No. 105 of 2011, Nos. 38, 44 and 82 of 2012, Nos. 15, 27, 28, 52, 66 and 70 of 2013, Nos. 11, 53, 61 and 98 of 2014, No. 14 of 2015; [modified by] Constitutional Court Decision No. 2 of 2015, [promulgated in] No. 23 of 2015; amended in Nos. 24, 29, 61 and 79 of 2015, Nos. 50, 95, 97 and 103 of 2016, Nos. 58, 85 and 101 of 2017, Nos. 7, 21, 28, 77 and 94 of 2018) and Nos. 17, 47, 74, 94 and 100 of 2019 and Nos. 28 and 51 of 2020) shall be supplemented as follows:

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§ 9. (Repealed, SG No. 20/2021).

ACT to Amendment and Supplement of the Electronic Communications Act  
(SG No. 20/2021)

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Supplementary Provision

§ 344. This Act shall transpose the requirements laid down in Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321/36, 17 December 2018).

Transitional and Final Provisions

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§ 353. (1) The statutory instruments of secondary legislation issued until the entry of this Act into force shall retain the effect thereof inasmuch as they do not conflict with the said Act.

- (2) The statutory instruments of secondary legislation for the application of this Act shall be brought into conformity with this Act within 6 months from the entry into force thereof.
- (3) The Council of Ministers shall adopt the ordinance referred to in Article 33 (6) within 6 months from entry into force of this Act.
- (4) The Communications Regulation Commission shall adopt the rules under Article 66a (3), Article 127 (2), Article 230c (1) and Article 243 (3) within 12 months from entry into force of this Act.
- (5) Within 6 months from entry into force of this Act the Communications Regulation Commission and the Personal Data Protection Commission shall adopt the instructions under Article 249 (4).
- (6) Within 6 months from entry into force of this Act the Communications Regulation Commission shall create the register under Article 33 (6).

§ 354. (1) The proceedings, including those for issuing authorizations for the use of limited resources, which started before entry into force of this Act shall be completed under the current procedure.

(2) Extension of the authorization for use of radiofrequency spectrum for the provision of electronic communications through terrestrial network enabling the provision of electronic communications services, issued before the entry into force of this Act shall be made once under Article 114 (2) – (4), if the purposes of the law are not violated.

(3) The requests for access to traffic data under the Electronic Communications Act and the Criminal Procedure Code submitted before the entry into force of this Act shall be considered under the current procedure.

§ 355. The members of the Communications Regulations Commission at the date of entry into force of this Act shall complete their term of office.

§ 356. Within 6 months from entry into force of this Act the Communications Regulation Commission shall review the existing obligations for the provision of public telephones and/or other points for public access to voice telephone services of a certain quality, the provision of a telephone directory and the provision of telephone inquiry services imposed as universal service obligations as part of the services within the scope of the universal service. Until 21 December 2021 the Communications Regulation Commission shall review all obligations imposed for the provision of universal service until entry into force of this Act.

§ 357. Until 21 December 2021 the Communications Regulation Commission shall forward to the Body of European Regulators for Electronic Communications the notifications received before 21 December 2020 under Article 75 (1).

§ 358. Until 21 December 2023 the Communications Regulation Commission shall conduct a geographical study under Article 181a on the coverage of electronic communications networks which can provide broadband access (broadband networks).

§ 359. The operators of electronic communications networks, which have built transceiver stations before entry into force of this Act shall submit applications for registration together with the relevant documents within 9 months from entry into force of this Act.

§ 360. The provision of § 272 regarding Article 242b shall become effective as of 21 June 2022.