

Based on Article 95, paragraph 3 of the Constitution of Montenegro I am passing the

Decree on proclamation of the Law on Electronic Communications

I hereby declare the Law on Electronic Communications, which was passed by the Parliament of Montenegro Montenegro in its 25th Convocation at its 10th session of the Ordinary (Spring) Sitting in 2013 held on 30th July 2013.

Number: 01-1452/2
Podgorica, 2nd August 2013th

President of Montenegro,

Filip Vujanović, s.r.

Pursuant to Article 82, paragraph 1, line 2 and Article 91, paragraph 2 of the Constitution of Montenegro, the Parliament of Montenegro in its 25th Convocation at its 10th session of the Ordinary (Spring) Sitting in 2013 held on 30th July 2013, passed the

Law on Electronic Communications

The Law is published in the "Official Gazette of Montenegro", number 40/2013 on 13th August 2013 and it comes into force on 21st August 2013.

I GENERAL PROVISIONS

Contents of the Law

Article 1

(1) This Law shall regulate the manner of management and use of electronic communications networks, terms and manner of conducting the activities in the area of electronic communications and other matters pertaining to electronic communications.

(2) For the purpose of this Law, the activity of electronic communications shall include construction and/or use and/or maintenance and making available of electronic communication networks and/or electronic communications infrastructure and associated facilities as well as provision of telecommunications services.

Public interest

Article 2

The activity of electronic communications and management and use of limited resources shall be the activities of public interest.

Principles in the area of electronic communications

Article 3

The activity of electronic communications and management and use of limited resources are based on:

- 1) objectivity, transparency, non-discrimination and proportionality;
- 2) providing conditions for even development of electronic communications market on the territory of Montenegro;

- 3) ensuring the predictability of business environment and equal conditions for business operators;
- 4) harmonizing electronic communications activities with Montenegrin and international standards;
- 5) ensuring the availability of universal services to all citizens in the territory of Montenegro, and meeting the needs of specific social groups, including persons with disabilities and socially vulnerable users;
- 6) ensuring interconnection between electronic communications networks and services on equal and mutually acceptable terms;
- 7) protecting and promoting competitiveness on the electronic communications market for the purpose of ensuring benefits for the users;
- 8) promoting efficient management and use of limited resources;
- 9) ensuring benefits for users, including the persons with reduced mobility, persons with disabilities, the elderly and socially vulnerable users in relation to selection, price, terms for access and use and the quality of electronic communications services;
- 10) ensuring protection of users in their relations with operators by enabling a simple and efficient dispute resolution procedure;
- 11) encouraging investments and innovations and development of a new and improved infrastructure;
- 12) continuously improving service quality in the area of electronic communications;
- 13) ensuring the protection of personal data and privacy;
- 14) providing end users with the possibility to, when using public communication networks and services, freely access and distribute information or use applications and services of their own choice;
- 15) ensuring integrity and safety of public electronic telecommunications networks;
- 16) ensuring the system for clear and reliable information to users about prices and conditions for the use of public electronic communications services; and
- 17) ensuring protection of users' interests.

Definitions

Article 4

Some of the terms used in this law shall have the following meaning:

- 1) **Address** is a series or combination of decimal digits, symbols and additional information used to identify particular terminal points of a connection to public electronic communications network;
- 2) **Applications Programming Interface** is a software interface between applications of

media content providers and devices for receiving the content;

- 3) **Number**, represents a series of decimal digits used for addressing in electronic communications networks;
- 4) **Emergency numbers** are the unique European phone number for emergency calls “112” and other numbers which, for the purposes of emergency services, are defined as such by the numbering plan;
- 5) **Electronic mail** means any text, voice, sound or image message sent over a public electronic communications network which can be stored in the network or in the recipient's terminal equipment until it is collected by the recipient;
- 6) **Electronic programme guide** is a service added to digital transmission of media content which enables the user a simple navigation through the offered media content and services;
- 7) **Geographic number** is a number from the numbering plan where part of its digit structure contains geographic significance used for routing calls to the physical location of the network termination point.
- 8) **Emergency services:** are medical emergency service, service for protection and rescue, police, the Operational communications centre and other services for emergency calls;
- 9) **Interface** is physical or logical connection between two or more devices, two or more parts of the same device, or channels used for transmission of signals, defined in the functional characteristics, signal characteristics or other relevant characteristics;
- 10) **Interconnection** is an access realized between electronic communications networks establishing physical or logical linking of public communications networks used by one or several different operators in order to allow the users of one operator to communicate with users of the same or of other operators, or to access services provided by other operators or other parties who have access to the network;
- 11) **Interoperability** is the ability of two or more systems or parts thereof to exchange and use exchanged information;
- 12) **Carrier selection** is a service which enables the user to establish specific types of connections within the scope of public telephone services, by selecting an operator to mediate in the establishment of connection, whereby the carrier selection may be programmed in advance or realized by dialling the operator selection code or by using another applicable technical procedure;
- 13) **Public pay telephone** is a telephone available to the general public, the use of which is paid with money, credit/debit cards or pre-payment cards, including cards for use with dialling codes;
- 14) **Publicly available telephone service** is a service available to the public for direct or indirect originating and receiving national and international calls through one or more numbers in a national or international telephone numbering plan;

- 15) **Communication** is information exchanged or conveyed between a finite number of parties by means of publicly available electronic communications services, not including the information conveyed to public by means of electronic communications network within the distribution of media content, save for the information which can be related to an identifiable subscriber or user receiving the information;
- 16) **End user** is the user who does not carry on the activities of electronic communications;
- 17) **Local loop** is the physical circuit (line) connecting the network termination point to the main distribution frame or equivalent facility within the public fixed electronic communications network;
- 18) **Media content** are radio or television programmes and/or audio-visual media content and related interactive services which are distributed and broadcast i.e. offered to users via electronic communications networks, based on the programme schedule or at user's request;
- 19) **Non-geographic number** is the number from the Numbering Plan that is not a geographical number and includes, among others, the numbers of mobile services, free services and added value services;
- 20) **Unsuccessful call attempt** is a communication where a telephone call has been successfully connected but not answered or there has been a network management intervention;
- 21) **Limited resources** are the radio-frequency spectrum, numbers, addresses and geostationary orbital positions;
- 22) **Location data** are the data processed in the electronic communications network or by way of electronic communications service, which indicate the geographic position of the terminal equipment of a user of the publicly available electronic communications service;
- 23) **Traffic data** are the data processed for the purpose of provision of electronic communications services or for the purpose of the calculation and billing thereof;
- 24) **Consumer** is any natural person who uses or requests a publicly available electronic communications service for the purposes which are outside his or her business activity;
- 25) **Related services** include services connected to an electronic communications network or electronic communications service, which enable or support service provision via that network or service, or which can be used for these purposes, including, among others, number translation systems or systems with identical functionality, conditional access systems and electronic programme guides, and other services, such as services based on the data on user identity, location and availability;
- 26) Personal data breach is every personal data protection breach which leads to personal data loss, destruction, modification, unauthorized access, publishing or violation in the process of providing public electronic communication services.
- 27) **Call** is a connection established by means of public electronic communications service allowing voice communication in real time;

- 28) **Operator pre-selection** is a service which, by means of a programmed pre-selection of an operator that mediates in the establishment of the connection, enables users to establish pre-selected types of connections in a public communications network, without dialling the operator selection code or without applying any other procedure for such diverting;
- 29) **Number portability** is the possibility provided to the subscribers to public electronic communications services to keep, at their own request, the subscriber number irrespective of the change of the operator;
- 30) **Subscriber** is any natural person or legal entity who or which is a party to a contract with an operator of publicly available electronic communications services for the supply of such services;
- 31) **Access** is making available of equipment, infrastructure and/or services to other operators, under certain conditions, for the purpose of providing electronic communications services, including services for the provision of information society services or distribution of media content to the end users. This also includes the access to elements of electronic communications network, electronic communications infrastructure and associated facilities that might include connecting equipment through fixed or wireless connections, especially the access to the local loop, and equipment and services necessary for the provision of services via local loop, access to the physical infrastructure (including buildings, cable ducts and antenna posts), access to appropriate software systems (including the systems for operational support), access to information systems and databases for service ordering, provision, maintaining, calculation and billing, access to number translation systems or systems with identical functionality, access to fixed and mobile networks (especially for the purpose of roaming services), conditional access systems and access to virtual network services;
- 32) **Radio frequency** is a basic physical parameter of electromagnetic waves or radio waves, freely propagating in open space in the conventional frequency range from 9 KHz to 3000 GHz;
- 33) **Radio-frequency band** is a portion of the radio-frequency spectrum defined by two specific delimiting radio-frequencies;
- 34) **Radio-frequency spectrum** is a portion of electromagnetic spectrum which includes radio frequencies in the conventional frequency range from 9 kHz to 3000 GHz;
- 35) **Radiocommunications** are transmission of telecommunications signals via electromagnetic waves from radio-frequency spectrum freely propagating in open space;
- 36) **Radiocommunication service** is the service which performs the transmission, emission and/or reception of radio waves for a specific telecommunication purposes;
- 37) **Radio station** is one or more transmitters or receivers, or a combination of one or more transmitters or receivers, with one or more antennas and other devices, placed in a particular location, necessary for provision of radio communications services, with the exception of a receiver for direct reception of broadcast signals;
- 38) **Conditional access system** is any technical measure or arrangement whereby access to

protected media content and services in intelligible form is made conditional upon subscription or other form of prior individual authorisation;

- 39) **Conditional access** is any technical measure and / or process that provides access to a protected service in an intelligible form, provided that the prior approval of the service provider is given;
- 40) **Conditional access device** is any equipment or software designed or adapted to give access to a protected service in an intelligible form;
- 41) **Unauthorized device** is any equipment or software designed or adapted to give access to a protected service intelligible form without prior authorization of the service provider;
- 42) **Interference** is the presence of unwanted signals at the entry point of a receiver of a given telecommunication system, as a consequence of a broadcast, radiation, induction or combination thereof from other sources, which is exhibited by degradation of signal transmission quality;
- 43) **Harmful interference** is an interference which obstructs the work of radio navigation service or other safety services or in other way severely reduces the quality, obstructs or causes frequent interruptions in the functioning of radiocommunicaton service which functions in compliance with relevant regulations;
- 44) **Terminal equipment** is a device and/or a component thereof which is used, wholly or mainly, for the provision of electronic communications services, and is connected, directly or indirectly, to a relevant network termination point;
- 45) **Network termination point** is a physical network connection point at which a subscriber is provided with access to the public electronic communications network.
- 46) **Value added service** is a service provided via public electronic communications networks and services by use of special numbers and special codes in the numbering plan or addressing plan for the purpose of access to pre-defined additional content or services related therewith, outside the scope of public communications;
- 47) **Wide-screen television service** is a service that consists wholly or mainly of programs produced and edited to be displayed on a wide-screen television, whereby 16:9 format is the reference format for wide-screen television.
- 48) **Protected service** is a television and radio media service and other audiovisual media services, and information society services provided for a fee and based on conditional access or providing conditional access to the above services as special services.
- 49) **Information society service** is any information society service which is normally provided for a fee, at a distance, by electronic means and at the request of a recipient of services.

II COMPETENCES IN THE AREA OF ELECTRONIC COMMUNICATIONS AND ORGANISATION OF INDEPENDENT REGULATORY BODY

Competences of the Government of Montenegro

Article 5

In the area of electronic communications, the Government of Montenegro (hereinafter: "the Government"):

- 1) defines the electronic communications development policy and guidelines for the implementation of electronic communications development policy in Montenegro;
- 2) adopts the plan for allocation of radio-frequency spectrum;
- 3) provides opinion to the Parliament of Montenegro (hereinafter: "the Parliament") regarding the business plan with a financial plan and to the financial statement of the Agency for Electronic Communications and Postal Services (hereinafter: "the Agency");
- 4) defines minimum set of services included in the Universal Service;
- 5) defines terms for use of electronic communications networks in the event of emergency;
- 6) performs other tasks stipulated in this Law.

Strategy

Article 6

- (1) Electronic communications policy development is defined in the Strategy for the development of electronic communications adopted by the Government for the period of five years.
- (2) The Strategy referred to in paragraph 1 of the Article hereof shall define long-term development goals and guidelines for the development of electronic communications and meeting the interests of consumers, taking into account technological and economic criteria, in accordance with environmental protection principles, measures for shared use of electronic communications network and promotion of competitiveness in the electronic communications market.
- (3) For the purpose of attaining the goals defined in the Strategy for the development of electronic communications, the state administration body in charge of electronic communications (hereinafter: "the Ministry") defines annual programmes and/or business plans for its implementation.
- (4) Upon the expiry of the period for which the programme and/or business plan was adopted, the Ministry reports to the Government of the implementation thereof.

Competences of the Ministry

Article 7

The Ministry:

- 1) monitors the implementation of the defined electronic communications development policy;
- 2) coordinates the activities which promote the development of electronic communications;
- 3) coordinates the work, with competent state administration bodies and the Agency, in

relation to the use of radio-frequencies and electronic communications network of importance for defence and security;

- 4) coordinates and implements the Government's decisions relating to the terms for use of electronic communications networks and services in emergency situations;
- 5) represents Montenegro in European and international organisations and institutions in the area of electronic communications;
- 6) participates in the work of administrative and working bodies of international organisations and institutions;
- 7) performs other activities stipulated in this Law.

Independent regulatory authority

Article 8

- (1) Agency is an independent regulatory authority which, by exercising public authorities in the area of electronic communications, performs regulatory and other tasks stipulated by the Law.
- (2) In performing regulatory and other tasks referred to in paragraph 1 of the Article hereof, the Agency may not accept or ask the instructions from state and other bodies and organisations or other persons.

Legal status of the Agency

Article 9

- (1) The Agency shall have the status of a legal person.
- (2) The Parliament shall have the rights and obligations of the Agency founder.
- (3) The Agency shall operate under the name the Agency for Electronic Communications and Postal Services.
- (4) The seat of the Agency shall be in Podgorica.
- (5) The Agency shall be registered in the Central Registry of Commercial Subjects.
- (6) Work of the Agency shall be public.

Agency Statute

Article 10

- (1) The Agency shall have the Statute which shall define, in particular: the manner of performing activities which are in public interest, in accordance with the law, competences and scope of activities of the bodies and expert services of the Agency, manner of adoption of enactments and other regulations, rights and responsibilities of Agency Council (hereinafter: "the Council"), rights and responsibilities of the Agency Executive Director (hereinafter: "the Executive Director"), internal organisation and other matters relevant for the Agency operation, in accordance with the Law.
- (2) The Statute of the Agency shall be adopted by the Council.

- (3) The Statute of the Agency shall be approved by the Parliament.
- (4) The Statute of the Agency shall be published in the "Official Gazette of Montenegro".

Competences of the Agency

Article 11

In the area of electronic communications, the Agency:

- 1) adopts regulations based on the authorisations stipulated in this Law;
- 2) adopts the Addressing Plan and Numbering Plan and controls their implementation;
- 3) prepares the draft plan for allocation of radio-frequency spectrum and controls its implementation;
- 4) adopts Radio Frequency Assignment Plans and controls their implementation;
- 5) prepares expert foundations for drafting regulations passed by the Government and the Ministry, in line with this Law;
- 6) controls and monitors radio-frequency spectrum;
- 7) takes measures to ensure national management of limited resources;
- 8) coordinates the use of radio-frequencies with bodies and/or organisations of other countries;
- 9) promotes national use of electronic communication infrastructure, in line with this Law;
- 10) implements procedures for allocation of limited resources on non-discriminatory terms;
- 11) issues approvals for the use of limited resources;
- 12) keeps and maintains the registers and databases in line with this Law;
- 13) determines the amount of fees payable to the Agency by natural and legal persons in the manner stipulated in this Law;
- 14) resolves users' complaints, considers initiatives and determines procedure for protection of interests and rights of users;
- 15) resolves disputes arising from the electronic communications market;
- 16) monitors the development of the Universal Service, administers the collection of fees paid for funding of the Universal Service and appoints the operator of the Universal Service;
- 17) regularly publishes the data on market development indicators in line with this Law;
- 18) analyses relevant markets, determines operators with significant market power and takes regulatory measures to prevent the negative effects of significant market power of operators;
- 19) carries out professional supervision of the work of operators, in accordance with the Law and technical regulations and standards effective in Montenegro;

- 20) carries out professional supervision of the fulfilment of operators' obligations in emergency situations;
- 21) cooperates with regulatory bodies of other countries and, within its competences, participates in the work of managing and working bodies of competent European and international organisations and institutions in the area of electronic communications;
- 22) performs market and public opinion analysis and carries out open consultative procedures, in line with this Law;
- 23) performs other activities stipulated by the Law.

Agency bodies

Article 12

The Agency's bodies shall be the Council and Executive Director.

Agency Council

Article 13

- (1) The Council shall have the President and four members.
- (2) The President and the members of the Council may perform their function in the Agency on a full-time or part-time professional basis.
- (3) The President of the Council shall convene sessions and preside over the work of the Council, and in his/her absence, he shall be substituted by the member of the Council appointed by the Council.
- (4) Regular Council sessions shall be held at least once a month, or more frequently, if necessary.
- (5) For its work the Council shall be accountable to the Parliament.

Competences of the Council

Article 14

- (1) The Council shall adopt:
 - 1) Agency Statute;
 - 2) Radio-Frequency Assignment Plans;
 - 3) Addressing Plan and Numbering Plan;
 - 4) Business Plan with Financial Plan;
 - 5) Activity Report with Financial Statement;
 - 6) Decisions on the amount of fee paid by the natural and legal persons i.e. enactments and other regulations, in accordance with this Law and the law regulating the area of postal services.
- (2) The Council submits to the Parliament the Activity Report with Financial Statement as well as the Business Plan with Financial Plan of the Agency.

- (3) The Council appoints and relieves the Executive Director.
- (4) The Council appoints independent auditor of the financial statement of the Agency, in accordance with the law regulating public procurements.
- (5) The Council performs other tasks in accordance with this Law and the statute of the Agency.

Appointment of the President and members of the Council

Article 15

- (1) The President and the members of the Council are appointed by the Parliament, upon the public announcement.
- (2) The public announcement referred to in paragraph 1 of the Article hereof shall contain the conditions and criteria for the appointment of the candidate for the President and member of the Council.
- (3) The parent Board of the Parliament shall publish the public announcement at least 180 days prior to the expiry of the term of office of the President or member of the Council i.e. immediately upon their dismissal.
- (4) The President and the members of the Council shall be appointed for the term of office of five years and shall not hold office for more than two consecutive terms.
- (5) Decision made upon the public announcement referred to in paragraph 1 of the Article hereof shall be published in the "Official Gazette of Montenegro".

Conditions and criteria for the selection of the President and members of the Council

Article 16

- (1) A person may be appointed as the President and the member of the Council if he/she is a Montenegrin citizen with the residence in Montenegro who, in addition to general requirements, meets the following special requirements:
 - 1) possesses higher education qualifications in the scope of 240 credits (MCS) i.e. completed study programme in the duration of four years in the area of electric engineering, postal traffic, economy or law;
 - 2) has minimum five years of work experience in the field of electronic communications or postal services.
- (2) In the final nomination procedure for the selection of candidates who fully meet the general and special requirements referred to in paragraph 1 of the Article hereof, the following criteria may be taken into account: length and type of work experience, particular specialisations in the area of electronic communications and postal services and knowledge of foreign languages.
- (3) Together with the application following the public announcement referred to in Article 15 paragraph 1 of this Law, the candidate shall submit the statement which, in the event of his/her appointment as the President or member of the Council, shall oblige him/her to eliminate the possible reasons for the conflict of interests, within 30 days from the date of appointment.

Prevention of the conflict of interests

Article 17

The President and the members of the Council may not be:

- 1) members of Parliament or board members;
- 2) persons elected, selected or appointed by the President of Montenegro, Parliament, Government or local-government assemblies;
- 3) political party officials (party presidents, members of presidency, their deputies, members of executive and general boards and other party officials);
- 4) spouses of the persons referred to in items 1 to 3 of this paragraph or their first-degree relatives, and in collateral line up to the second degree, relatives by marriage up to the first degree, spouses or common-law partners, adopters and adoptees;
- 5) members of managing bodies, owners, shareholders or stakeholders and the persons who are employed or perform other tasks in legal entities subject to this Law or the law regulating the area of postal services.

Termination of the term of office for the President or member of the Council

Article 18

The term of office for the President or member of the Council shall be terminated upon the expiry of the term for which he/she was appointed or by dismissal.

Dismissal of the President or the member of the Council

Article 19

- (1) The Parliament shall dismiss the President or the member of the Council prior to the expiry of the term of office, if he/she:
 - 1) submits the application for resignation;
 - 2) has a final conviction of a criminal offence and is sentenced to a prison term exceeding six months, for the period of legal effects of the conviction, or if convicted of a criminal offence which makes him/her unfit for such office;
 - 3) fails to fulfil or unconscientiously, untimely or negligently fulfils his/her duties;
 - 4) damages the independence and reputation of the Agency by his/her conduct and work;
 - 5) has been deprived of legal capacity under a final decision;
 - 6) any of the conditions referred to in Article 17 of this Law are fulfilled;
 - 7) it is found that when submitting the application according to the public announcement for the appointment of President or member of the Council he/she provided incorrect information or failed to provide the information of the circumstances relevant for such appointment.
- (2) The President or member of the Council shall submit the application for resignation to the Parliament.
- (3) The President or the member of the Council shall inform the Council on the submission of

application for resignation within eight days from the date of submission thereof.

- (4) The reasons for dismissal of the President and members of the Council shall be a subject to special explanation.
- (5) The decision on dismissal shall be published in the "Official Gazette of Montenegro".

Executive Director

Article 20

- (1) The Executive Director shall perform his/her function in the Agency in a professional capacity.
- (2) The Executive Director shall:
 - 1) act for and on behalf of the Agency;
 - 2) be responsible for the lawful operation of the Agency and organise the work of Agency's administrative and technical services;
 - 3) decide on rights, obligations and responsibilities of the Agency employees;
 - 4) file the request for initiation of offence proceedings before the competent court;
 - 5) propose the business plan with the financial plan, the activity report with financial statement and other enactments and by-laws, and implement decisions of the Council;
 - 6) ensure the transparency of Agency's operation and
 - 7) perform other activities in accordance with the Law and the Statute of the Agency.
- (3) The Executive Director shall be accountable for his/her work to the Council.

Appointment of Executive Director

Article 21

- (1) The Executive Director shall be appointed by the Council, for the term of four years, upon the public announcement.
- (2) The person who fulfils the requirements referred to in Article 16 and 17 of this Law may be appointed as the Executive Director.
- (3) The Council shall publish the public announcement at least 90 days prior to the expiry of the term of office of the Executive Director i.e. immediately upon his/her dismissal.
- (4) The Executive Director may not hold office for more than two consecutive terms.
- (5) The decision on the appointment of the Executive Director shall be published in the "Official Gazette of Montenegro".

Termination of the term of office and dismissal of the Executive Director

Article 22

- (1) The term of office of the Executive Director shall be terminated upon the expiry of the term for which he/she was appointed or upon his/her dismissal.

- (2) The dismissal of the Executive Director prior to the expiry of his/her term of office shall be subject to the provision of Article 19 paragraph 1 of this Law.
- (3) The reasons for dismissal of the Executive Director shall be subject to special explanation.
- (4) The decision on dismissal of the Executive Director shall be published in the "Official Gazette of Montenegro".

Rights and obligations arising from employment

Article 23

The President and members of the Council, Executive Director and Agency employees shall exercise their rights and obligations in accordance with the general labour regulations, this Law and Agency regulations.

Funding of the Agency

Article 24

- (1) The funds for the Agency operation shall be provided from the proceeds generated from:
 - 1) fees paid to the Agency by the operators on the electronic communications market, which are used for the activities of market regulation and supervision;
 - 2) fees paid to the Agency for the use of radio –frequencies, numbers and addresses;
 - 3) other fees and sources, in accordance with the Law.
- (2) In the course of drafting its business plan, the Agency shall consult the operators and other stakeholders on the market of electronic communications and postal services.
- (3) The financial plan shall project the total revenues and expenditures necessary for the implementation of business plan, including contingency reserves, broken up by areas: regulation and supervision of electronic communications market, regulation and supervision of postal services market and the management and supervision of the utilisation of limited resources, in accordance with the activities anticipated in the business plan.
- (4) The Agency business plan with financial plan for the subsequent year shall be adopted by the Parliament.
- (5) In the event that the Parliament fails to adopt the financial plan referred to in paragraph 4 of the Article hereof prior to the beginning of the year for which it is adopted, the expenditures of the Agency for each subsequent quarter shall not exceed one fourth of the amount of funds specified in the financial plan for the previous year before the financial plan is adopted.

Agency accounting

Article 25

The Agency shall keep separate accounting of the funds used for the activities in the area of electronic communications and proceeds thereon, and funds for the activities in the area of postal services, in accordance with the law regulating postal services.

Agency Activity Report with Financial Statement

Article 26

- (1) The Agency Activity Report shall specify the data on:
 - 1) development of electronic communications sector;
 - 2) introduced regulatory measures;
 - 3) implementation and quality of the Universal Service in the electronic communications sector;
 - 4) allocated limited resources;
 - 5) development of postal service market;
 - 6) implementation and quality of universal postal service;
 - 7) exercise of rights and protection of interests of the users of electronic communications services and postal services;
 - 8) performed tasks of the Agency defined in the activity plan.
- (2) The Financial Statement shall contain financial indicators of Agency operation.
- (3) The Financial Statement of the Agency shall be subject to annual audit by an independent authorised auditor.
- (4) Expenses of the audit shall be covered by the Agency.
- (5) The activity report with financial statement shall be considered and adopted by the Parliament.

Excess revenue over expenses
Article 27

If the Financial Statement of the Agency shows that total Agency revenues exceed total expenditures, the excess revenue is allocated to a special account to be used exclusively for the fulfillment of the legal obligations related to the function of the Agency in the coming calendar year.

Transparency of the Agency's work
Article 28

- (1) The Agency shall publish the regulations it passed under the authorisation stipulated by this law in the "Official Gazette of Montenegro " and on the Agency's website.
- (2) In addition to the regulations referred to in paragraph 1 of the Article hereof, the Agency shall publish the following on its website:
 - 1) decisions of the Council;
 - 2) excerpts from the registries and databases kept in accordance with this Law;
 - 3) comparative reviews of the quality and prices of services and other data relevant for the protection of users;

- 4) statistical data and other indicators of electronic communications and postal services market development;
 - 5) business plan with the financial plan;
 - 6) activity report with financial statement and auditor's report;
 - 7) other data and information in connection with the work of the Agency, in accordance with this Law, the law regulating postal services and the law regulating free access to information.
- (3) Data which are considered confidential in accordance with this law, the law regulating data confidentiality, protection of personal data and protection of undisclosed data, shall be considered confidential and they shall not be published. .

Agency registries

Article 29

- (1) The Agency shall keep the following registries in the area of electronic communications: of operators, assigned radio-frequencies, assigned numbers and addresses and electronic communications infrastructure and associated facilities.
- (2) The content and manner of keeping registries referred to in paragraph 1 of the Article hereof shall be prescribed by the Agency.
- (3) The registries referred to in paragraph 1 of the Article hereof shall keep the data on operators i.e. issued approvals for the use of limited resources, five years after the termination of work of the operator i.e. after the expiry of the approval for use of limited resources.

Collecting information

Article 30

- (1) The operator shall, at a written request, submit to the Agency the available information, including financial information and information relating to the development of network or services which may affect its wholesale services, except for the information referred to in Article 180 and 181 of this Law.
- (2) The Agency may request from the operator with significant market power on the wholesale market to submit accounting information of retail markets related to the wholesale markets.
- (3) The request referred to in paragraph 1 of the Article hereof shall determine the type of information, purpose of its collection and the deadline within which the operator shall submit the required information, in accordance with the purpose for which the submission of information is requested.
- (4) The operator shall submit the information referred to in paragraphs 1 and 2 of the Article hereof in the form and within the deadline determined by the Agency.
- (5) The access to information referred to in paragraph 1 and 2 of the Article hereof and the procedure for obtaining the access in accordance with the law regulating free access to information, can be obtained under the conditions determined by the Agency.

Handling confidential information

Article 31

- (1) Operator which based on the request referred to in Article 30 paragraph 1 and 2 of this Law submits the information to the Agency shall clearly specify the information it considers confidential.
- (2) If the submitted information is marked as confidential contrary to the law regulating data confidentiality, protection of personal data and protection of undisclosed data, the Agency shall not consider such information confidential.
- (3) The Agency shall handle the information referred to in Article 30 paragraph 1 and 2 of this Law in the manner which ensures its confidentiality, provided that such information is confidential.

Decision-making

Article 32

- (1) In the procedure before the Agency, the Council shall decide by the majority votes of the total number of Council members.
- (2) The procedure before the Agency shall be subject to the provisions of the law regulating administrative procedure, unless stipulated otherwise by this Law.
- (3) The Council shall decide on rights and protection of users' interests within 30 days from the date of application.
- (4) The Council shall promptly decide on the rights and obligations of the operator, and not later than within 90 days from the date of the initiation of the procedure.
- (5) Administrative dispute proceedings may be brought against the decisions of the Agency.

Public consultations

Article 33

- (1) In the process of preparing by-laws which may have a considerable impact on the market of electronic communications and postal services, the Agency shall conduct public consultations.
- (2) Public consultations shall be conducted for by-laws which shall define general terms and conditions for carrying out the electronic communications activity, for market determination and analysis which may be subject to ex ante regulation, for designation of operators with significant market power and definition of their obligations, and for regulation of relations in connection with shared use of electronic communications infrastructure, access, and interconnection, and shall not last less than 30 days in accordance with this Law.
- (3) Public consultations relating to the preparation of other by-laws shall last minimum 15 days.
- (4) The conduct of public consultations shall be defined in the regulation of the Agency.
- (5) A written report on the implementation of public consultation shall be submitted to the

participants of the public consultation and must include an explanation of Agency attitudes in relation to the proposals that were submitted during the public consultation.

Mediation in disputes

Article 34

- (1) At the request of operators, the Agency can mediate in resolution of disputes between the operators.
- (2) The Agency shall end the procedure for mediation referred to in paragraph 1 of the Article hereof within 90 days from the date of application for mediation.

Cooperation with other competent bodies

Article 35

- (1) In the area of electronic communications, the Agency shall particularly cooperate with:
 - 1) the Ministry, in the enforcement of this Law;
 - 2) the body in charge of competition protection, by submitting a request for opinion and petition and initiation of procedure before such body in the event of prevention, restriction or violation of competition on the market, in accordance with this Law and the law regulating the protection of competition in the market;
 - 3) state administration body in charge of consumer protection, in accordance with this Law and the law regulating consumer protection;
 - 4) state administration body in charge of environmental protection, in accordance with this Law and the law regulating environmental protection;
 - 5) regulatory body in charge of audio-visual media services, in accordance with this Law and the law regulating electronic media;
 - 6) body in charge of the protection of personal data, in accordance with this Law and the law regulating the protection of personal data;
 - 7) bodies of state administration in charge of prevention and/or protection of information systems safety, in accordance with this Law, the law regulating information safety and the law regulating free access to information.

III ELECTRONIC COMMUNICATIONS INFRASTRUCTURE AND ASSOCIATED FACILITIES

Electronic communications infrastructure and associated facilities

Article 36

Electronic communications infrastructure and associated facilities include the infrastructure and facilities associated with electronic communications network or electronic communications service which enables or supports service provision or can be used for the purpose of service provision, including buildings or entrances thereto, cable ducts and lines in buildings, antennas and other masts, supporting structures, pipes and canals, shafts and distribution cabinets and

conditional access systems and related services.

Electronic communications network and service

Article 37

- (1) Electronic communications network shall include transmission systems and, in accordance with its capacities, switching and routing devices and other resources, including passive network elements, which enable the conveyance of signals by wire, radio, optical or other electromagnetic systems, including satellite networks, fixed and mobile networks (with circuit and packet switching, including the Internet), electric power cable systems used for signal transmission, networks used for broadcasting and distribution of media content to the end users, regardless of the type of information transmitted.
- (2) Electronic communications network which is used, wholly or mainly for the provision of publicly available electronic communications services and which enables data transmission between network termination points, shall be considered public electronic communications network.
- (3) Electronic communications service is a service which is, by rule, provided for a remuneration and which consists entirely or mostly of the transfer of signals via electronic communications networks, including telecommunications services and the service of broadcasting of media content, but it does not include media content service provision or editorial control of media content transmitted over electronic communications networks and services, nor does it include information society services which do not entirely or mostly consist of transmission of signals via electronic communications networks.
- (4) Electronic communications service provided under market conditions shall be considered, in accordance with this Law, a publicly available electronic communications service.

Provision of electronic communications networks and services

Article 38

Any natural or legal person may construct, provide and use electronic communications networks, electronic communications infrastructure and render electronic communications services under the conditions stipulated in this Law and other regulations, provided that in doing so, it does not pose danger to life and health of people, environment and national security.

Construction and use of electronic communications networks

Article 39

- (1) Any physical or natural person, when constructing and using electronic communications networks, electronic communications infrastructure and associated facilities and when providing electronic communications services, shall enable full supervision and control over the construction and use of electronic communications networks, electronic communications infrastructure and associated facilities and provision of electronic communications services.
- (2) Electronic communications networks, electronic communications infrastructure and associated facilities shall be planned, designed, produced, constructed, maintained and used in accordance with international and Montenegrin standards and technical specifications effective in Montenegro, in the manner which shall ensure that:
 - 1) it does not cause interference in the functioning of other electronic communications networks and electronic communications infrastructure and associated facilities;

- 2) the persons with disabilities are enabled the access to and availability of publicly available electronic communications services.
- (3) Electronic communications network, electronic communications infrastructure and associated facilities may be connected to the public electronic communications network provided that the technical requirements are met, which enable: free selection of carrier and terminal equipment, safe use, integrity of public electronic telecommunications network and interoperability of publicly available electronic communications services.
- (4) Operator and/or the owner of electronic communications equipment, electronic communications infrastructure and associated facilities shall, within 15 days before the start of construction, submit to the Agency a written notice of the beginning of construction, construction site and technical features of the planned network, infrastructure and associated facilities or their constitutive parts.
- (5) Operator i.e. the owner of electronic communications equipment, electronic communications infrastructure and associated facilities shall, within seven days from the date of use, submit to the Agency a written notice of the beginning of use and technical characteristics of the network, infrastructure and associated facilities.
- (6) The terms of use and other conditions for planning, construction, maintenance and use of particular types of electronic communications networks, electronic communications infrastructure and associated facilities shall be prescribed by the Agency.

**Planning
Article 40**

- (1) Planning of electronic communications networks, electronic communications infrastructure and associated facilities in planning documents shall be carried out in the manner which shall not limit their development or endanger life and health of people, space and environment.
- (2) At the request of the main designer of preparation works on the design and adoption of a planning document, the operators shall submit the data on existing and planned electronic communications networks, electronic communications infrastructure and associated facilities included in the scope of the planning document.
- (3) In the procedure for preparation of the planning document the Agency shall receive the request for opinion on the conformity of the planned electronic communications networks, electronic communications infrastructure and associated facilities with this Law.

**Electronic communications network in buildings
Article 41**

- (1) In constructing residential and office buildings intended for sale and shared use, the developer shall ensure the construction of electronic communications networks, electronic communications infrastructure and associated facilities, solely for such building and in accordance with the design documents.
- (2) Electronic communications networks, electronic communications infrastructure and associated facilities referred to in paragraph 1 of the Article hereof shall be constructed to enable a simple access, replacement, improvement and use which is not conditioned by the use of particular users or operators.

- (3) The developer referred to in paragraph 1 of the Article hereof shall provide adequate connections to the public electronic communications networks, suitable to the purpose of the building.
- (4) Electronic communications networks, electronic communications infrastructure and associated facilities in a building shall be constructed and installed in the manner which enables the building owners a free selection of a carrier and to all operators the access to the building under equal conditions.
- (5) The owners of business or residential premises i.e. condominium owners' committee in the constructed building shall enable the access to all operators, under equal conditions, for the purpose of installation, maintenance and development of electronic communications networks, electronic communications infrastructure and associated facilities.
- (6) More detailed technical and other requirements for the design, construction and use of electronic communications network, electronic communications infrastructure and associated facilities in buildings shall be prescribed by the Agency.

Works in the vicinity of electronic communications networks

Article 42

- (1) In the vicinity of electronic communications networks, electronic communications infrastructure and associated facilities there shall be no works, planning of new buildings, planting of seedlings or taking other actions which may damage or interfere with the operation thereof.
- (2) In the protective zone or radio-corridor of radio station there shall be no works, planning of new buildings, installation of technical equipment or other activities which may obstruct the propagation of electromagnetic waves and cause interference with radio communications.
- (3) The Ministry, with the approval of the state administration body in charge of spatial planning, in accordance with the law regulating spatial planning and construction of structures, shall prescribe the parameters for electronic communications networks, electronic communications infrastructure and associated facilities, the width of protective zones and types of radio corridors in which no planning of other buildings is allowed within the meaning of paragraph 1 and 2 of the Article hereof.

Protection and/or relocation of electronic communications networks

Article 43

- (1) In the events when, for the purpose of execution of works, the protection and/or relocation of electronic communications network or electronic communications infrastructure and associated facilities is necessary, the developer shall:
 - 1) design the project for protection and/or relocation of electronic communications network or electronic communications infrastructure and associated facilities, in accordance with the planning document, and obtain the owner's approval thereof;
 - 2) minimum 30 days prior to the anticipated inception of works, inform the owner of the electronic communications network or electronic communications infrastructure and associated facilities thereof, and ensure the access to the owner for the purpose of supervision of works;

- 3) ensure protection and/or relocation of electronic communications network or electronic communications infrastructure and associated facilities at its own expense, except in the cases when the protection and/or relocation of electronic communications network or electronic communications infrastructure and associated facilities is carried out for execution of works in accordance with regulations governing road, rail, airport and port infrastructure.
- (2) If the electronic communications network or electronic communications infrastructure and associated facilities to be protected and/or relocated are not constructed in accordance with the law, their protection and/or relocation shall be carried out at the expense of the owner.

Construction in the zone of traffic infrastructure

Article 44

- (1) When planning public roads, rail infrastructure, airport with associated infrastructure and port infrastructures, the capacities for electronic communications network, electronic communications infrastructure and associated facilities shall be planned.
- (2) The infrastructure developer referred to in paragraph 1 of the Article hereof shall, submit to the Agency the notification of the planned traffic route 30 days prior to development of the design
- (3) The Agency shall promptly publish the notification referred to in paragraph 2 of the Article hereof on its website.
- (4) At the request of the operator, the infrastructure developer referred to in paragraph 1 of the Article hereof shall provide, under equal conditions, the use of available capacities for electronic communications networks, electronic communications infrastructure and associated facilities.

The right to easement

Article 45

- (1) The owners of the property shall enable the operators a free access to or on the property for the purpose of construction, maintenance and use of electronic communications networks and electronic communications infrastructure and associated facilities.
- (2) Mutual rights and obligations of the operators and property owners shall be regulated by the contract.
- (3) In the event that the operator and property owner fail to reach an agreement on determination of the right to easement and on the amount of the appropriate fee, the decision thereof shall be made by the competent court.
- (4) The other matters relating to the right to easement shall be subject to the provisions of the law regulating property and legal relations.
- (5) In the construction of electronic communications networks and electronic communications infrastructure and associated facilities on the other party's land and building, the operator shall implement the measures for protection of electronic communications networks and electronic communications infrastructure and associated facilities against the damages which could occur by regular use of such land or building.

IV CARRYING OUT THE ACTIVITIES OF PUBLIC ELECTRONIC COMMUNICATIONS

Application and Registry of Operators

Article 46

- (1) Any legal or natural person, prior to the inception of use, and/or the operator, prior to the termination or change in the regime of use of public communications networks or prior to the provision of publicly available electronic communications services, shall submit a written application to the Agency.
- (2) For the purposes of this Law, the operator shall mean a natural or legal person and/or entrepreneur who provides or is entitled to provide a publicly available electronic communications service or to make available for use public electronic communications network or public electronic communications infrastructure and associated facilities.
- (3) The application referred to in paragraph 1 of the Article hereof shall be submitted to the Agency, not later than 15 days prior to the inception of use and/or termination or change in the regime of use of public electronic communications networks or provision of publicly available electronic communications services.
- (4) The application referred to in paragraph 1 of the Article hereof shall include:
 - 1) for natural person – name and surname, unique personal identification number and address or for a foreign natural person - the name and surname, date and place of birth, passport issuing country or identity card and number of such document;
 - 2) for legal entity – name of company, seat, statistical and registration number, account number and name and surname of the representative;
 - 3) brief description of public electronic communications networks and/or publicly available electronic communications services, which shows network and/or service characteristics;
 - 4) anticipated date of inception, change or termination of regime of usage of public electronic communications networks or provision of publicly available communications services.
- (5) With the application referred to in paragraph 1 of the Article hereof, the evidence shall be submitted that the applicant is registered for carrying out the activity of electronic communications.
- (6) The operator shall inform the Agency of any change in data referred to in paragraph 4 items 1 and 2 and paragraph 5 of the Article hereof, within 15 days from the date of change and/or of the change of data referred to in paragraph 4 items 3 and 4 of the Article hereof, not later than within 15 days prior to the anticipated date of change.
- (7) The application referred to in paragraph 1 of the Article hereof shall be submitted on the form prescribed by the Agency.

Handling the application

Article 47

- (1) The Agency shall, within seven days from the date of receipt of a duly submitted application referred to in Article 46 paragraph 1 of this Law, register the operator in the Registry of Operators or make the change or deletion from the Registry and issue the confirmation of such registration, change or deletion from the Registry.
- (2) If the application does not include the data referred to in Article 46 paragraph 4 of this Law, the Agency shall inform the applicant, within seven days from the date of application receipt, to supplement the application within the period which may not be shorter than seven days.

Separate accounting

Article 48

- (1) If a legal entity whose main business activity is not the activity of electronic communications intends to make available its own electronic communications network and/or electronic communications infrastructure and associated facilities or use it for provision of publicly available electronic communications services, it shall apply to the Agency in accordance with Article 46 paragraph 1 of this Law.
- (2) The legal entity referred to in paragraph 1 of the Article hereof shall establish a separate legal entity for carrying out the activities of public electronic communications and keep separate accounting by business activities, in the manner in which revenues and expenses in relation to making available electronic communications network and/or electronic communications infrastructure or provision of publicly available electronic communications services are presented separately from other business activities.

Rights arising from registration

Article 49

- (1) The applicant or operator referred to in Article 46 paragraph 1 of this Law, on the basis of a proper application, gains the right to use the public electronic communications network and/or provide public electronic communications services.
- (2) The right referred to in paragraph 1 of this Article shall include:
 - 1) the carrying out of the activity of public electronic communications;
 - 2) negotiation and making arrangements as for the access and interconnection at national and international level;
 - 3) the assignment as the operator of one or more universal services, in accordance with this Law,
 - 4) utilization of other rights determined by this Law.

Deletion from the Registry

Article 50

The Agency shall delete the operator from the Registry of Operators in the following events:

- 1) if the operator informs the Agency in writing that it ceased the registered business activity;
- 2) if the operator fails to carry out the registered business activity for more than one year,

unbrokenly;

- 3) if the operator is prohibited from carrying out the registered business activity by the legally binding judgement;
- 4) in other cases, in compliance with the Law.

Annual fee for the activities of market regulation and supervision

Article 51

- (1) , Operator shall pay annual fee to the Agency. for the activities of market regulation and supervision in the area of electronic communications
- (2) The amount of the fee referred to in paragraph 1 of the Article hereof shall be up to 1.5 % of the total operator's revenue realized in the previous year for the provision of publicly available electronic communications services and giving for use the electronic communications network, electronic communications infrastructure and associated facilities, up to the level which covers the costs of market regulation and supervision activities in the sector of electronic communications, anticipated in the Financial Plan of the Agency.
- (3) The Agency shall determine the amount of the fee referred to in paragraph 1 of the Article hereof by the decision issued for each calendar year.
- (4) Operator shall settle the payable amount referred to in paragraph 1 of the Article hereof within 15 days from the date of submission of the decision referred to in paragraph 3 of the Article hereof.

Notification of revenue

Article 52

- (1) The operator shall notify the Agency of the revenue for the calendar year, generated in the previous year from the provision of publicly available telecommunications services, electronic communications network given for use, electronic communications infrastructure and associated facilities, not later than until the end of the third month of the current year.
- (2) If the operator fails to notify of the amount of revenues within the period referred to in paragraph 1 of the Article hereof, the Agency shall take the total revenue of the operator in the previous business year as the base for calculation of the annual fee for expenses of market regulation and supervision referred to in Article 51 paragraph 1 of this Law, based on the data of the operator submitted to the administration authority in charge of public revenue.
- (3) The operator who, in addition to electronic communication activities, performs other activities, shall keep separate accounting records for each activity in order to record and report separately the revenue generated on the basis of allowing the use of electronic communication network and/or electronic communication infrastructure and associated facilities and provision of public electronic communication services.
- (4) Should the operator fail to keep separate accounting records in accordance with paragraph 3 of this Article, the Agency shall base its calculation of annual fee for regulation and market supervision referred to in Article 51 paragraph 1 of this Law on the total revenue of the operator from the previous business year, on the basis of operator information delivered to the administrative authority responsible for public revenues

- (5) If the Agency has any doubts as to the accuracy of the data referred to in paragraph 1, 2 and 3 of the Article hereof, it may commission an auditor to perform the audit thereof.
- (6) If the audit referred to in paragraph 5 of the Article hereof determines that the operator's revenue deviates from the reported revenue by more than 3 %, the Agency shall take the amount of revenue specified in the auditor's report as the base for calculation of the fee referred to in Article 51 paragraph 1 of this Law and the costs of audit shall be paid by the operator.

Shared use of electronic communications infrastructure and associated facilities

Article 53

- (1) For the purposes of rational use of space, environmental protection and public health, national security, spatial planning and protection of cultural heritage, construction and use of electronic communications network, electronic communications infrastructure and associated facilities, the operator shall perform its activity in the manner which enables a shared use of elements of electronic communications infrastructure and associated facilities, in accordance with the available capacities.
- (2) Operator shall publish and update the data relevant for the shared use of available capacities of electronic communications infrastructure and associated facilities on its website.
- (3) Operator shall reply to the request of another operator for the shared use of electronic communications infrastructure and associated facilities, within 15 days from the date of receipt of the request.
- (4) If operator refuses the request of another operator referred to in paragraph 3 of the Article hereof or if the agreement on the shared use is not reached within 45 days from the date of request, the request of the operator for the shared use shall be decided by the Agency.

Reaching agreement on the shared use

Article 54

- (1) Operators shall agree on the shared use of electronic communications infrastructure and associated facilities provided that such use is technically feasible and does not cause interference with the use of such infrastructure and associated facilities.
- (2) Mutual rights and obligations of the operators in the shared use of electronic communications infrastructure and associated facilities shall be regulated by the contract.
- (3) If the request for the shared use of electronic communications infrastructure and associated facilities has not been submitted and the Agency finds that for the purpose of protection of space, environment, public health, national security, cultural heritage or rational use of land, a shared use of electronic communications infrastructure and associated facilities should be provided, it shall instruct such shared use and determine the conditions and rules thereof.
- (4) Prior to deciding on the shared use referred to in paragraph 3 of the Article hereof, the Agency shall conduct public consultations procedure.
- (5) The Agency shall not instruct the shared use of electronic communications infrastructure and associated facilities which could affect the actual rights of a third party, without the approval of such party.

- (6) The Agency shall pass a regulation to lay down detailed conditions and manner of the shared use of electronic communications infrastructure and associated facilities, and the measures for increasing availability of free capacities in such infrastructure, upon the approval of the state administration body in charge of environmental protection and spatial planning.

Data on electronic communications infrastructure and associated facilities

Article 55

- (1) The records on the type, availability and geographic location of the electronic communications infrastructure and associated facilities which may be of interest for the shared use shall be kept by the Agency.
- (2) Operators shall submit to the Agency the data referred to in paragraph 1 of the Article hereof on quarterly basis.
- (3) The Agency shall prescribe the type and manner of the submission of data referred to in paragraph 1 of the Article hereof.

Access and interconnection

Article 56

- (1) The operator shall have the right and, when requested by the other operator, an obligation to negotiate about the access to and interconnection of its networks for the purpose of providing publicly available electronic communications services and ensuring their interoperability.
- (2) The operator shall publish and update on its website the data which are relevant for negotiations about the access and interconnection.
- (3) Rights and obligations in connection with the access and interconnection shall be regulated between the operators by contract, in accordance with this Law.
- (4) The contract referred to in paragraph 3 of Article hereof shall include:
 - 1) contracting parties;
 - 2) subject matter of the contract;
 - 3) provided services, agreed quality and time limits;
 - 4) commercial terms;
 - 5) maintenance of network operability;
 - 6) service interoperability;
 - 7) term of the contract i.e. the conditions for contract termination and cancellation period, if the contract has been concluded for the indefinite term;
 - 8) procedures for data protection in the course of service provision;
 - 9) sanctions in the event of breach of the contract;
 - 10) manner and procedure for determining responsibility for services provided to the third

party and

- 11) other elements, in line with the Law.
- (5) The operator shall reply to the request of another operator for access or interconnection, within 15 days from the date of request.

Registration of contracts and data protection

Article 57

- (1) The operator shall submit to the Agency the copy of the contract on access and/or interconnection entered into with the operators in Montenegro and with the operators in another country, for the assessment of its compliance with this Law and for the purpose of registration.
- (2) Contracting parties shall protect the confidentiality of all data they exchange in the course of negotiations or enforcement of the contract on access and/or interconnection and shall not use them otherwise or give them to any third party or persons related to the contracting parties or the third party who could use such data to gain a competitive advantage on the market.
- (3) More detailed procedure for obtaining access and/or interconnection and the conditions under which the operator may limit the access and/or interconnection shall be defined in the Agency regulation.

Agency deciding on disputable issues

Article 58

- (1) If the operator refuses the request of another operator referred to in Article 56 paragraph 1 of this Law or if no negotiations on access and/or interconnection take place within 45 days from the date of request, the Agency shall decide about the disputable issues relating to the access or interconnection , upon the request of one of the operators.
- (2) The operators shall enter into contract on access and/or interconnection, in accordance with the decision of the Agency, within 15 days from the date of Agency's decision.
- (3) The operators shall establish access and/or interconnection within 45 days from the date of the contract referred to in paragraph 3 of the Article hereof.
- (4) The Agency may instruct the operators to ensure the appropriate access and/or interconnection for the purpose of protecting the interests of end users or ensuring interoperability of electronic communications networks and services.
- (5) Prior to issuing the decision on access and/or interconnection referred to in paragraph 2 of the Article hereof, the Agency shall conduct public consultations procedure.

Distribution of digital radio and television programmes

Article 59

- (1) Public electronic communications networks intended for distribution of digital television services shall be planned in order to enable the provision of wide-screen television service as well as the other digital television service.

- (2) When receiving and transmitting the service and programmes referred to in paragraph 1 of this Article, the operator shall keep the wide-screen format, if intended for reception on wide television screen.
- (3) Operator may also transmit television programmes using different screen aspect ratios.
- (4) Operator shall ensure to the broadcasters whose programmes it transmits the access to applications programming interfaces and/or electronic programme guides under fair, transparent and non-discriminatory conditions.
- (5) Operator shall transmit digital radio and television programmes in accordance with standards.

Conditional access systems and protected services

Article 60

- (1) Conditional access systems for digital television and radio services must have technical conditions enabling operators to have complete control over services protected with such systems.
- (2) Operator of conditional access services shall be obliged to offer to all broadcasters whose programmes it transmits, the technical conditions, under fair, transparent and non-discriminatory terms, which allow the end users to access the programmes by means of conditional access devices.
- (3) Conditional access systems used by operators shall not prevent the access of end users to free programmes.
- (4) Operator of conditional access services shall be obliged to keep separate accounting for such services.
- (5) The manufacturing, production, import, distribution, sale, rental, or possession of unauthorized devices which allow access to a protected service for commercial purposes is prohibited.
- (6) The installation, maintenance or replacement of the device referred to in paragraph 5 of this Article for commercial purposes is prohibited.
- (7) Commercial communications for the purpose of advertising, offering and placing on the market of unauthorized devices referred to in paragraph 5 of this Article are prohibited.

V EMERGENCY SITUATIONS

Emergency plan in the emergency situation

Article 61

- (1) Operator shall develop the emergency plan which ensures integrity of public electronic communications network and the use of electronic communications services in the event of major failures of the network, state of war and emergency, natural disasters and other emergency situations.
- (2) Emergency plan referred to in paragraph 1 of the Article hereof shall be developed for the calendar year, and the measures defined in the plan shall be carried out for the duration of circumstances for which they were adopted.

- (4) Operator shall submit the plan of measures referred to in paragraph 1 of the Article to the Ministry, the Agency, authorities responsible for defence and security, protection and rescue and administrative authority responsible for inspection affairs, within three days from the date of its adoption. During the emergency situation, the owners of radio stations, at the request of the competent authority, shall adjust the use of their electronic and communications networks and facilities to such situation or make them available or give them for use to the competent authorities.
- (5) Measures referred to in paragraph 1 of this Article shall ensure permanent access to emergency service numbers.
- (6) Measures set forth in the emergency plan referred to in paragraph 1 of the Article hereof shall be prescribed by the Government.

Priorities in emergency situations

Article 62

- (1) In emergency situations, operator shall be obliged to adjust its network so as to give priority to communications from certain network termination points.
- (2) The decision on the right of priority to communications in the emergency situations shall be issued by the Government.
- (3) Network termination points and user groups with priority rights, entitled to a network termination point, shall be defined by the Government.
- (4) For the purpose of the priority right to communications, the Government may request from operator to suspend the operation of other telephone connections or impose other measures.

VI PROTECTION OF COMPETITION IN THE AREA OF ELECTRONIC COMMUNICATIONS

Market susceptible to ex-ante regulation

Article 63

- (1) A market susceptible to ex-ante regulation shall be the market having structural, regulatory and other lasting barriers which prevent the market entry of new competitors and where it is impossible to develop competition without ex-ante regulation (hereinafter: „relevant market“).
- (2) Ex-ante regulation referred to in paragraph 1 of the Article hereof shall include defining of special conditions under which the operators with significant market power carry on the activity of electronic communications for the purpose of ensuring market competition development.

Market analysis procedure

Article 64

- (1) Market analysis procedure shall be carried out by the Agency.
- (2) In the procedure referred to in paragraph 1 of the Article hereof, the Agency shall:

- 1) identify relevant markets susceptible to ex-ante regulation in accordance with Article 65 of this Law;
 - 2) define relevant markets and assess the existence of one or more operators with significant market power in order to assess whether the relevant market is effectively competitive in accordance with Article 66 of this Law;
 - 3) impose regulatory obligations on the operators with significant market power if the analysed relevant market is not effectively competitive pursuant to Article 69 of this Law;
 - 4) withdraw all regulatory obligations from the operators with significant market power if the analysed relevant market is effectively competitive in accordance with Article 70 of this Law.
- (3) The Agency shall conduct the analysis of relevant markets and determine significant market power in accordance with this Law, taking into account the recommendations, opinions and guidelines of the relevant bodies and organisations of the European Union and/or other relevant international bodies or organisations.
- (4) The Agency shall carry out the procedures referred to in paragraph 2 of the Article hereof at least once in three years.
- (5) The Agency shall conduct the analysis of trans-national markets in cooperation with the competent regulatory authorities of these countries.

Identification of relevant markets

Article 65

- (1) In the procedure for identification, monitoring and analysis of relevant markets on the electronic communications market in Montenegro, the Agency shall cooperate with the body competent for competition protection.
- (2) Prior to issuing a decision which shall determine relevant markets, the Agency shall conduct the procedure of public consultations.
- (3) The Agency may determine that other markets can also be subject to ex-ante regulation, provided that, at the same time, such markets meet the following criteria:
 - 1) existence of strong and lasting barriers of structural, legal and regulatory nature which prevent market entry;
 - 2) market structure does not show tendencies to develop efficient market competition in the appropriate period of time, not longer than three years;
 - 3) change in regulations governing the protection of competition does not provide efficient elimination of market deficiencies.

Determining relevant markets

Article 66

- (1) The Agency shall carry out the procedure for determining relevant market and evaluation of existence of operators with significant market power on the relevant markets defined in the decisions of the Agency referred to in Article 64 paragraph 2 item 2 of this Law.

- (2) The procedure for determining relevant market referred to in paragraph 1 of this Article shall be carried out by identification of relevant service market and relevant geographic market, in accordance with regulations governing the protection of competition.

Operators with significant market power

Article 67

- (1) An operator shall be deemed to have significant market power if, either individually or jointly with other operators, it enjoys a position of economic strength affording it the power to behave to an appreciable extent independently of its competitors and users.
- (2) If two or more operators operate within the market structure which is evaluated as the one enabling coordinated activities, they shall be deemed the operators enjoying the position of joint dominance in terms of economic strength referred to in paragraph 1 of the Article hereof and in the absence of structural and other connections between them.
- (3) If the Agency finds, according to the analysis of the relevant market, that there is an efficient competition in a particular market, it shall not identify any operator as the operator with significant market power.
- (4) Where one of the operators has significant market power in a specific relevant market, it may also be deemed to have significant market power on the other related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the operator.

Criteria for the assessment of significant market power of an operator

Article 68

- (1) In assessing significant market power of the operator referred to in Article 67 paragraph 1 of this Law, the Agency shall apply any of the following criteria:
 - 1) market share of the operator in the relevant market and changes in structure for a longer period of time;
 - 2) barriers to entry into a relevant market and effects of potential competition on such market;
 - 3) influence of large users on the operators' power (countervailing purchase power);
 - 4) lack of potential competition;
 - 5) economies of scale and economies of scope;
 - 6) technological advantages or superiority;
 - 7) development of sales and distribution network;
 - 8) level of vertical integration;
 - 9) level of product diversification;
 - 10) privileged access to capital markets and financial resources;

- 11) barriers to expansion;
 - 12) connection of provided services.
- (2) Upon assessing the significant market power of two or more operators referred to in Article 67 paragraph 2 of this Law, the Agency shall apply some of the following criteria:
- 1) low elasticity of demand;
 - 2) similar market shares;
 - 3) high legal or economic barriers to entry into the market;
 - 4) vertical integration with joint refusal of service provision;
 - 5) lack of countervailing purchase power;
 - 6) lack of potential competition.
- (3) In assessing significant market power of an operator and applying the criteria referred to in paragraph 1 and 2 of this Article, the Agency shall cooperate with the body competent for competition protection.

Identification of operators with significant market power

Article 69

- (1) If, on the basis of a market analysis, the Agency finds that the market lacks sufficient competition, it shall identify an operator and/or operators with significant market power in that market by means of a Decision.
- (2) Before issuing the Decision referred to in paragraph 1 of the Article hereof, the Agency shall request an opinion from the body responsible for the protection of competition.
- (3) In the Decision referred to in paragraph 1 of the Article hereof, the Agency shall request taking at least one of the measures referred to in Articles 71 to 78 of this Law, with the application of the principle of rationality and proportionality.
- (4) The Decision referred to in paragraph 1 of the Article hereof shall also define the deadlines for the implementation of measures and provide the explanation of instructed measures.
- (5) The Agency shall decide on obligations of operators with significant market power on transnational market, in cooperation with other regulatory bodies of the countries competent for that market.

Repeated market analysis

Article 70

- (1) In the procedure for repeated identification of the same operator as the operator with significant market power, based on the analysis referred to in Article 64 paragraph 3 of this Law, the Agency may change the scope of required measures.
- (2) If the procedure of repeated analysis finds that the operator no longer has a significant market power, the decision referred to in paragraph 1 of the Article hereof shall be revoked.

- (3) If based on the repeated analysis the Agency finds that the relevant market is sufficiently competitive, it shall not identify the operator with significant market power.
- (4) If the market referred to in paragraph 3 of the Article hereof was not competitive prior to the repeated analysis, the Agency shall issue a new decision which shall repeal the decision under which the operator with significant market power was identified on that market, including the measures ordered by such a decision.

Obligation to disclose information

Article 71

- (1) By the Decision referred to in Article 69, paragraph 1 of the Law hereof, the Agency may request the operator to disclose the information on access and/or interconnection services, such as: accounting data, technical specifications, network characteristics, terms of use and prices of services.
- (2) The Decision referred to in paragraph 1 of the Article hereof shall more specifically define the type of data, manner and time limits for their disclosure, by ensuring the protection of confidential information.
- (3) If the Decision referred to in paragraph 1 of the Article hereof imposes the obligation of separate accounting, the Agency may request the operator to publish a reference offer for provision of access and/or interconnection services, within 90 days from the date of submission of the Decision.
- (4) The offer referred to in paragraph 3 of the Article hereof shall be made in accordance with objective possibilities of an operator and objective needs of other operators and a precise specification shall be contained therein which shall ensure that other operators pay only for the requested service.
- (5) The offer specification referred to in paragraph 4 of the Article hereof shall contain the list of services and conditions related therewith, in accordance with the needs of other operators, as well as prices and discounts or manner of their definition.
- (6) The offer referred to in paragraph 4 of the Article hereof shall contain, for the fixed network operators, the elements of access services via local access network, including the usage of associated infrastructure elements.

Change in reference offer

Article 72

- (1) If the offer referred to in Article 71 paragraph 3 of this Law is not in accordance with this Law or market conditions, after conducted public consultations, the Agency may request the operator, by means of Decision, to change the offer within 30 days from the date of the Decision of the Agency.
- (2) The Decision referred to in paragraph 1 of the Article hereof may define a minimum list of offered elements.
- (3) The operator may also independently make a change to the reference offer.
- (4) The Agency shall publish the operator's reference offer on its website.

Obligation of non-discrimination

Article 73

- (1) Under the Decision on identification of an operator with significant market power, the Agency may impose on the operator the obligation to provide access and/or interconnection services under equal conditions.
- (2) The obligation referred to in paragraph 1 of the Article hereof shall ensure that the operator applies equivalent conditions and equal quality in providing the services of access and/or interconnection to any operators providing retail services, as it provides services for its own needs and for the needs of those operators that are a part of its company or company related thereto.
- (3) Under the Decision referred to in paragraph 1 of the Article hereof, the Agency may order the contract on access and/or interconnection to be published on the website of the operator, by ensuring the protection of confidential information.

Accounting separation

Article 74

- (1) Under the Decision on identification of operator with significant market power, the Agency may request the operator to keep separate accounting records on business activities related to providing services of access and/or interconnection, with the propose to control the implementation of measures referred to in Article 73 of this Law and prevent unfair cross-subsidy.
- (2) In particular, by imposing the measure referred to in paragraph 1 of the Article hereof, the Agency may request from a vertically integrated operator to render visible its wholesale prices and internal price transfers relating to the transactions between business units, markets, market segments and services of vertically integrated operator.
- (3) Under the Decision referred to in paragraph 1 of the Article hereof, the Agency shall define the manner of keeping and separation of accounting records.
- (4) At the request of the Agency, the operator referred to in paragraph 1 and 2 of the Article hereof shall submit accounting records, including the information on revenues generated from other persons.
- (5) In order to promote competition and open market, the Agency publishes on its website the data it has collected from the operator, in accordance with paragraphs 1 to 4 of this Law, provided that the confidential information is protected.

Access to network elements and their use

Article 75

- (1) Under the Decision on identification of operator with significant market power, the Agency may request the taking of measures for the purpose of meeting all reasonable requests for access to, and use of, the possibilities of specific electronic communications network elements, electronic communications infrastructure and associated facilities.
- (2) The Agency shall request the measures referred to in paragraph 1 of the Article hereof particularly in cases when it considers that the denial of access would hinder the establishment of a sufficiently competitive market at the retail level, or it would cause harm

to the interests of end users.

(3) For the implementation of measures referred to in paragraph 1 of the Article hereof, the Agency may request the operator to:

- 1) negotiate in good faith with operators on requests for access to and use of network elements;
- 2) enable the access to specified network elements and/or facilities which are not active and/or access to local loop, for enabling carrier selection and/or carrier pre-selection and/or subscriber line resale offer;
- 3) carry out the interconnection of electronic communications network;
- 4) not withdraw the access already granted;
- 5) provide specified services on a wholesale basis because of the resale of those services on the retail market;
- 6) grant free access to technical interfaces, protocols and other technologies and possibilities that are indispensable for the interoperability of services and/or networks, including virtual network services;
- 7) provide common accommodation of equipment and other forms of common usage of electronic communication infrastructure and related equipment;
- 8) provide facilities necessary for interoperability of services for end users, including intelligent networks services, distribution system or roaming services in mobile networks;
- 9) provide access to operational support systems or similar systems necessary to ensure fair competition in the provision of services;
- 10) provide access to related services such as services based on data on identity, location and availability of users.

(4) When assessing the scope of obligations from paragraph 3 of this Article, and in particular, when assessing whether the requested measure is proportionate to the principles referred to in Article 3 of this Law, the Agency shall particularly evaluate:

- 1) the technical and economic viability of using or installing facilities of a competitor, taking into account the rate of market development and the nature and type of the proposed access and/or interconnection;
- 2) the feasibility of providing the proposed access in relation to the capacity available;
- 3) the initial investment of the facility owner, bearing in mind the investments and related risks;
- 4) the need to safeguard competition in the long term, particularly economically effective competition at the level of infrastructure;

- 5) adequate intellectual property rights;
 - 6) provision of services deriving from international obligations of Montenegro.
- (5) In imposing the obligations set out in paragraphs 1 to 4 of this Article, the Agency may prescribe technical and organizational requirements to be met by the operator with significant market power as well as by the operators requesting access, when this is considered to be a prerequisite for securing the unhindered functioning of the network.

Price control and cost accounting

Article 76

- (1) Under the Decision on identification of operator with significant market power, the Agency may request taking measures in relation to cost recovery and price control of certain services that are provided for access and/or interconnection and cost accounting purposes.
- (2) The Agency may request the measures referred to in paragraph 1 of this Article, if based on market analysis, it deems that an operator with significant market power, due to lack of efficient competition or for the purpose of suppressing it, might keep either excessive prices or too low difference among wholesale and retail prices to the detriment of the end users.
- (3) In requesting measures from paragraph 1 of this Article, the Agency shall take into account the risks, investments and ensuring of an acceptable rate of return on investments of the operator.
- (4) The operator that was ordered to take measures of cost orientation and cost accounting shall provide evidence that prices are calculated based on expenses with an acceptable rate of return on investment.

Implementation control

Article 77

- (1) In controlling the implementation of measures referred to in Article 76 paragraph 1 of this Law, the Agency may apply a different methodology of cost accounting from the one applied by the operator. The Agency may request from the operator, by way of Decision, to explain and correct its prices if necessary, where the burden of proof relating to the justifiability of prices shall be upon the operator.
- (2) The Agency may prescribe a cost covering mechanism or methodology of pricing referred to in Article 76 paragraph 1 of this Law and/or use the comparison with prices on comparable markets or markets with developed competition, bearing in mind the specifics of the local market, which shall be appropriate to the objectives of improving efficiency and sustainable competition and developing and improving the benefits for consumers.
- (3) Under the Decision referred to in Article 69 paragraph 1 of this Law, the Agency may order the operator to keep a specific cost accounting system, including categorization and classification of costs and rules applied to the distribution of costs.
- (4) Compliance of the cost accounting with the Decision referred to in paragraph 2 of the Article hereof shall be verified by an independent auditor, and the auditor's Compliance Statement shall be published by the Agency annually, on its website.

Regulation of retail service prices

Article 78

- (1) Where, as a result of market analysis, and in accordance with the Decision referred to in Article 69 paragraph 1 of this Law, the Agency determines that a given service market intended for end user is not effectively competitive, the Agency may impose regulatory measures on retail prices.
- (2) Measures referred to in paragraph 1 of this Article shall be imposed by the Agency only if assessed that by imposing measures as per Articles 71 to 77 of this Law, the effective competition on the electronic communications market would not be accomplished, or if the imposed measures did not produce expected results.
- (3) The measures referred to in paragraph 1 of the Article hereof may prohibit:
 - 1) calculation of excessive prices;
 - 2) obstruction of entry into market;
 - 3) restriction of competition by setting excessively low prices;
 - 4) giving undue advantages to a particular end user;
 - 5) unreasonable bundling of particular services.
- (4) In determining measures referred to in paragraph 1 of the Article hereof, the Agency may instruct the operator with significant market power to apply any of the following methods:
 - 1) Introduction of retail price caps;
 - 2) regulation of individual tariffs for services;
 - 3) cost-orientation of prices;
 - 4) harmonisation of prices with the prices on comparable markets.

Regulation of roaming prices

Article 78a

- (1) The Agency may, without a prior market analysis procedure, determine the maximum roaming prices to an operator of public electronic communication services, in accordance with agreement on reduction of roaming prices in public mobile communication networks, concluded between Montenegro and other countries.
- (2) The maximum prices referred to in paragraph 1 of this Article shall be established by way of an Agency regulation.

Functional separation of vertically integrated operators

Article 79

- (1) If the Agency finds that the application of regulatory measures referred to in Articles 71 to 77 of this Law did not result in effective market competition and that there are important and permanent barriers to the market competition and gaps on the market in relation to the provision of particular wholesale access services, it may, exceptionally and with previously

obtained opinion of the Government, through a decision impose on the vertically integrated operators the obligation to separate the activities related to provision of wholesale access service in an independently operating business unit.

- (2) Within an independently operating business unit referred to in paragraph 1 of the Article hereof, access products and services shall be provided to all operators on equal terms, including the business units within the operator referred to in paragraph 1 of the Article hereof, as follows: by same systems and procedures and with equal deadlines and terms, including the conditions relating to prices and service level.
- (3) The Agency Decision referred to in paragraph 1 of the Article hereof shall include:
 - 1) clearly described nature and level of separation, with the determination of a legal status of a separate business unit,
 - 2) identification of the assets of a separate business unit as well as the type of products or services to be supplied by this business unit,
 - 3) regulations on the method of management to ensure independence of employees in a separate business unit and appropriate payroll system,
 - 4) rules for ensuring compliance with obligations,
 - 5) rules for ensuring transparency of implemented procedures, particularly in relation to other market players,
 - 6) monitoring programme to insure compliance, which includes publishing of annual statement of operations.
- (4) The Agency shall, in parallel, conduct the analysis of other relevant markets related to the access network and shall accordingly impose, keep, change or revoke regulatory obligations referred to in Articles 71 to 77 of this Law.
- (5) The operator who was imposed the measure referred to in paragraph 1 of this Law may also be imposed any of the appropriate measures referred to in Articles 71 to 77 of this Law.

Voluntary separation of vertically integrated operators

Article 80

- (1) A vertically integrated operator designated as having significant market power on one or more relevant markets may independently decide to separate or transfer its access network or a considerable part thereof to a separate legal entity or separate business unit (voluntary separation of vertically integrated operator).
- (2) The operator referred to in paragraph 1 of the Article hereof shall inform the Agency of its intention to transfer its access network or considerable part thereof to a separate legal entity, 90 days in advance, with the change of ownership structure, or of the formation of a separate business unit for the provision of the same access products and services to the retail service operators, including its own business units for retail services, and of the possible change of such intention and final outcome of the separation procedure.
- (3) The Agency shall make assessment of the effects of intended separation on the existing

regulatory obligations of the operator, within the period referred to in paragraph 2 of the Article hereof.

- (4) For the purpose of assessment referred to in paragraph 3 of the Article hereof, the Agency shall parallelly analyse other relevant markets related to the access network, in accordance with Article 69 of this Law.
- (5) Following the conducted analysis referred to in paragraph 4 of the Article hereof, the Agency shall impose, keep, change or revoke the measures referred to in Articles 71 to 77 of this Law.
- (6) Any of the measures referred to in Articles 71 to 77 of this Law may be imposed on a separate independently operating business unit referred to in paragraph 2 of the Article hereof.

VII UNIVERSAL SERVICE

Universal Service

Article 81

- (1) For the purposes of this Law, the Universal Service shall be the basic set of electronic communications services of specified quality and scope available to end users on the territory of Montenegro at affordable prices, regardless of their geographic position.
- (2) The Universal Service shall be provided on a technologically neutral basis, on the principles of objectivity, transparency, proportionality and non-discrimination, while distorting market competition to the least possible extent.

Services of the Universal Service

Article 82

- (1) The services of the Universal Service shall include:
 - 1) meeting any reasonable user's request for the access to public electronic communications network and publicly available electronic communications services on a fixed location, which enables the use of voice communication and data transfer rate which enables functional Internet access;
 - 2) providing the service of universal telephone directory (hereinafter: "Universal Directory") and universal enquiry service for subscriber numbers (hereinafter: „Universal Enquiry Service“);
 - 3) use of public pay telephones or other publicly available points for provision of voice services at any time, in accordance with the reasonable requests and needs of end users, in terms of geographic coverage and service quality;
 - 4) special measures and benefits for persons with disabilities, including the access to emergency services, enquiry service for subscriber numbers and directory of subscribers, which enables them to have the same possibilities of access to the publicly available telephone services as the other end users as well as the appropriate selection of operators available to the majority of end users.
- (2) Minimum set of services included in the Universal Service, including the services referred to

in paragraph 1 item 1 of the Article hereof, shall be determined by the Government with an opinion of the administrative authority or organisation responsible for state aid control.

- (3) Minimum set of services may be changed within the period which may not be shorter than two years following the regulation referred to in paragraph 2 of the Article hereof.
- (4) The Agency shall monitor the development of Universal Service and propose necessary changes in the minimum set of services included in the Universal Service.

Criteria for assessment of reasonableness of requests, transfer rate and benefits

Article 83

- (1) The criteria for assessment of reasonableness of requests and needs referred to in Article 82 paragraph 1 items 1 and 3 of this Law shall be determined by the Agency.
- (2) Upon the proposal of the Agency, the Ministry shall: determine the transfer rate which enables a functional Internet access and the deadline for realisation of such transfer rate, taking into account prevailing access technologies, technological and economic rationality and objectives of the electronic communications strategy.
- (3) The type of benefits and measures referred to in Article 82 paragraph 1 item 4 of this Law shall be determined by the Ministry, with the approval of the state administration body in charge of social welfare.

Universal Directory

Article 84

- (1) The Universal Directory and/or the database of Universal Enquiry Service, shall include at least the following subscriber information: name and surname and/or the name of a company and its organisational form, address and/or seat of subscriber and assigned subscriber number, except for the subscribers of publicly available telephone services who requested the prohibition of such data entry and publishing.
- (2) The operator of publicly available telephone services which provides the subscriber with the connection to the electronic communications network shall submit the information referred to in paragraph 1 of the Article hereof to the Universal Service operator which provides the service of Universal Directory and/or Universal Enquiry Service, within seven days from the date of connection.
- (3) The operator referred to in paragraph 2 of the Article hereof shall update the information in the Universal Directory at least once a year.
- (4) The Universal Directory shall be published in printed and electronic form, with the approval of the Agency.

Universal Enquiry Service

Article 85

- (1) For publishing data in the Universal Directory the Universal Directory operator can not charge for the service of subscribers' data publication.
- (2) The Universal Enquiry Service shall provide the information on fixed-line and mobile (post-paid and pre-paid) telephone numbers of all subscribers who did not request the prohibition to publish such information, according to the subscriber number or owner number.

- (3) The access to Universal Enquiry Service shall be provided to all end users, including the users of public pay telephones.
- (4) The information provided by the Universal Enquiry Service shall be updated minimum once in 60 days.
- (5) In the event that the operator of publicly available telephone services fails to provide the information referred to in Article 84 paragraphs 1 and 2 of this Law within the period defined for the update of information, the operator of the Universal Directory and/or Universal Enquiry Service shall promptly inform the Agency thereof.
- (6) The Universal Service operator which provides the services of Universal Directory and/or Universal Enquiry Service shall handle the information obtained from the operator of publicly available telephone network on equal terms.

Designation of Universal Service operators

Article 86

- (1) The Agency shall, by means of a Decision, designate one or more operators of the Universal Service, for the period of 5 years, so as to ensure provision of the Universal Service on the territory of Montenegro.
- (2) The Universal Service operator shall be designated based on the procedure of the Agency following the public tender.
- (3) The selection of operator referred to in paragraph 2 of the Article hereof shall be made by applying the following criteria: capacities for provision of the Universal Service or its segments in a particular area, costs of service, price of service and technological capacities of the network in the sense of planned expansion of volume and quality of the Universal Service.
- (4) If the Agency fails to designate the Universal Service operator through a public tendering procedure, the Agency shall carry the research of the publicly available communication services market at a fixed location and shall, by way of a decision, appoint as Universal Service operator the operator with the largest share on such market, applying the principles of efficiency, objectivity and transparency.
- (5) In the Decision on designation of the Universal Service operator referred to in paragraph 1 of the Article hereof, the Agency shall define conditions for provision of the Universal Service.
- (6) The content and procedure of public tender for the selection of the Universal Service operator shall be prescribed in more detail by the Agency with an opinion of the administrative authority or organisation responsible for state aid control.

Control of the Universal Service provision

Article 87

- (1) The Agency shall control, periodically, and minimum once a year, the compliance of the Universal Service with this Law, based on the obtained information of the services provided by the Universal Service operator and in the procedure of conducted public consultations.

- (2) If the Agency finds that the Universal Service does not provide the services in accordance with this Law, it shall announce a public tender for the selection of a new Universal Service operator.
- (3) The current Universal Service operator shall continue the provision of the Universal Service in accordance with the Agency Decision, until the designation of a new Universal Service operator.

Notification of access network unbundling

Article 88

- (1) The operator of the Universal Service shall inform the Agency, 60 days in advance, of its intention to unbundle its access network, wholly or in a considerable part, into a separate legal entity, with the change of ownership structure, for the purpose of assessment of the effects of intended unbundling on the access to fixed location and provision of publicly available telephone services.
- (2) In the event referred to in paragraph 1 of the Article hereof, the Agency shall amend or annul the decision on the designation of Universal Service operator.

Prices, general terms and rights of the Universal Service users

Article 89

- (1) The price of service within the set of Universal Services provided by the operator shall be determined equally for all users on the territory of Montenegro.
- (2) The Universal Service operator shall offer price options or packages for socially vulnerable persons and persons with disabilities.
- (3) The Agency shall monitor the development and level of prices within the set of Universal Service.
- (4) If the Agency establishes that the prices referred to in paragraph 2 of this Article are too high with regard to the minimum cost of labour in Montenegro, the Agency shall require from the Universal Service operator to offer special prices or packages for socially vulnerable users, and persons with disabilities, under more favourable terms.
- (5) The service price assessment method and affordability of special packages shall be prescribed by a regulation of the Agency.
- (6) The list of categories of persons referred to in paragraph 2 of the Article hereof shall be determined by the state administration body in charge of social affairs until the end of the current year, for the subsequent calendar year.

Special obligations of the Universal Service operators

Article 90

- (1) The Universal Service operator shall provide to the user the technical capacities and/or special tariff regimes for the categories of socially vulnerable persons and persons with disabilities, which enable price and service spending control.
- (2) The Universal Service operator shall:

- 1) determine general terms for service provision and unbundled prices on a bill for individual services provided under the Universal Service payable by the Universal Service user.
 - 2) ensure bill itemization in accordance with Article 162 of this Law;
 - 3) upon request of the user, enable outgoing call barring for preventing calls to particular number or type of numbers, free of charge.
- (3) Under the Decision referred to in Article 86 paragraph 1 of this Law, the Agency may order the Universal Service operator to provide the subscribers with:
- 1) pre-paid system for payment of access to the public electronic communications network and use of publicly available electronic communications services;
 - 2) payment of the fee for connection to the public electronic communications network in instalments.

Quality of the Universal Service

Article 91

- (1) Upon the proposal of the Agency, the Ministry shall adopt:
 - 1) parameters of the Universal Service quality, its limiting values and methods of measurement;
 - 2) content, form and manner of publication of information on the Universal Service quality.
- (2) The operator of the Universal Service shall quarterly submit to the Agency the information on measured service quality parameters and of the change in the Universal Service quality, within 30 days from the date when the service quality was changed, and shall publish updated information on quality of those services at least once a year.
- (3) If the Agency has any doubts as to the authenticity of the data submitted by the Universal Service operator, it may authorise an independent auditor to audit such data.
- (4) In case the audit referred to in paragraph 3 of the Article hereof confirms the authenticity of the submitted data, the expenses of the audit shall be borne by the Agency.
- (5) In case the audit finds that the submitted data are incorrect, the expenses of the audit shall be borne by the operator.
- (6) If the measured values of quality parameters of a particular Universal Service operator do not reach limiting values at least three consecutive times in one year, the Agency shall be entitled to initiate the procedure for the selection of a new Universal Service operator.

Net costs of the Universal Service provision

Article 92

- (1) The Universal Service operator is entitled to compensation of net costs associated with the provision of the Universal Service, in case that provision of Universal Service constitutes an unjustified financial burden to such operator.
- (2) Net cost in providing the Universal Service shall represent the difference between the net operating cost incurred by the Universal Service operator, with and without the obligation to

provide the Universal Service.

- (3) The methodology of calculation of net cost shall be prescribed by the Agency upon the conducted public consultation process with an opinion of the administrative authority or organisation responsible for state aid control.

Keeping of separate accounting records

Article 93

- (1) The Universal Service operator shall keep separate accounting records and separately record and report revenues and costs generated as result of provision of the Universal Service from revenues and costs generated as result of provision of other services.
- (2) The Universal Service operator shall submit to the Agency the report on services provided under the Universal Service, until the end of the second quarter of the current year, with the statement of net costs and accounting records, as well as the information used in the calculation of net costs for the Universal Service provision in the previous year.
- (3) The operator which fails to submit the report on services provided under the Universal Service with the statement of net costs and accounting records, within the period referred to in paragraph 2 of the Article hereof, shall not be entitled to compensation of net costs.
- (4) The Agency shall verify and approve accounting records and information referred to in paragraph 2 of the Article hereof and may authorise an independent auditor for the purpose of audit of accounting records and data.
- (5) In verifying accounting records and information referred to in paragraph 2 of the Article hereof, the Agency shall realistically evaluate the costs which the Universal Service operator would have chosen had there been no Universal Service obligation as well as intangible benefits of such operator, whereby the double accounting of any benefits and costs shall not be allowed.

Calculation of net costs

Article 94

- (1) Accounting records of the Universal Service operator kept in accordance with Article 93 of this Law shall be used by the Agency as source of data for calculation of net costs. .
- (2) If the Universal Service operator has been appointed on the basis of a public tender, the Agency shall take account of the offer submitted by the operator in the public tender in the calculation of net costs.
- (3) If the Agency based on net costs establishes that the provision of service represents an unjustified financial burden for an operator of Universal Service, it shall determine, by means of a Decision, the amount of compensation that shall not exceed the amount of net cost.
- (4) The calculation of net costs, which is the basis for compensation of net costs of the Universal Service shall be determined in accordance with state aid regulations.
- (5) The Agency may, for the purposes of reducing net costs for the provision of the Universal Service, require the Universal Service operator to apply certain technical or other solutions or to conclude the offered interconnection contracts or cooperate with other operators, or it may acknowledge net costs up to the amount that would result from application of the requested technical and other solutions.

- (6) The Agency shall publish on its website the results of net cost calculation and results of audit referred to in Article 93 paragraph 2 of this Law submitted by the Universal Service operator.

Universal Service financing

Article 95

- (1) Compensation for net costs of the Universal Service shall be provided from contributions paid by operators whose share in the total annual revenue in the area of electronic communications exceeds 2%.
- (2) For an individual operator, the amount of contribution and method of payment shall be determined by the Agency in proportion to the share of its revenue generated from the provision of public electronic communications services and/or giving for use the electronic communications network, electronic communications infrastructure and associated facilities in the total annual revenue generated by the operator referred to in paragraph 1 of this Article in the electronic communications sector.
- (3) Operators shall pay their contributions referred to in paragraph 2 of the Article hereof directly to the provider of Universal Service, to the amount and within the deadlines specified in the Decision of the Agency.
- (4) The Agency shall publish on its website the information of the compensation of net costs of the Universal Service, their allocation and use for the intended purpose.
- (5) The Agency shall publish on its website a consolidated annual report on compensation of net costs for provision of the Universal Service, until 31 December of the current year for the previous year.

VIII RADIO-FREQUENCY SPECTRUM

Radio-frequency spectrum management

Article 96

- (1) Radio-frequency spectrum management, as a limited resource, shall include planning, assignment, coordination, monitoring and control of usage thereof.
- (2) The Agency shall manage radio-frequency spectrum in accordance with international agreements (the Convention and Radio Regulations of the International Telecommunications Union (ITU)) and this Law.
- (3) The Agency shall coordinate the use of satellite orbits in accordance with relevant international agreements and this Law, in line with the interests of Montenegro.
- (4) The Agency cooperates with international organizations and competent authorities of other countries responsible for radio-frequency spectrum management, independently or through the competent authorities.

Radio-frequency spectrum allocation plan

Article 97

- (1) The Radio Frequency Spectrum Allocation Plan shall specify the allocation of radio frequency bands for individual radio communications services in accordance with Radio Regulations of the International Telecommunications Union.
- (2) Radio Frequency Spectrum Allocation Plan for radio-frequency bands shall define:
 - 1) allocation to one or more radio communications services in Montenegro, whereby individual radio frequency bands do not have to be intended for certain radio communications services (usage independent from the type of radio communications service);
 - 2) assignment to one or more relevant applications or technologies, whereby the use of individual radio frequency bands may be independent from the applied technology (technologically neutral use);
 - 3) allocation for civil and/or military use;
 - 4) conditions for the use of associated radio frequencies which may indicate the application of other relevant decisions and recommendations of the International Telecommunications Union, the European Conference of Postal and Telecommunications Administrations (CEPT) and other competent international organisations and institutions as well as other regulations, international treaties and agreements;
- (3) Radio-Frequency Spectrum Allocation Plan shall be published in the "Official Gazette of Montenegro " and on the website of the Agency.
- (4) Radio-Frequency Spectrum Allocation Plan shall be adopted by the Government.

Radio-frequency assignment plan

Article 98

- (1) The Plan for radio-frequency assignment from a particular band shall define the assignment of radio-frequencies from a particular band to radio-frequency channels, more detailed terms, usage and method for assigning radio-frequencies to one or more specific radiocommunications services, in accordance with the Radio-Frequency Spectrum Allocation Plan.
- (2) Radio-frequency assignment plans shall be adopted by the Agency, taking into account the needs and demands of users, upon the conducted procedure of public consultations.
- (3) The procedure for the adoption of radio-frequency assignment plans takes into account the needs of national security and defence, protection against natural and other disasters and the needs of emergency and rescue services.
- (4) The Agency shall submit radio-frequency assignment plans for the approval of:
 - 1) state bodies and institutions competent for safety of civil air transportation and maritime transportation in relation to the plans for allocation of radio-frequency bands which are allocated for the purposes of air and maritime service, and which are used for safety of civil air and maritime traffic;
 - 2) state bodies competent for internal affairs, national security and defence, in relation to

the plans for allocation of radio-frequency bands which are allocated for the purposes of civil and military use;

- 3) regulatory body competent for audio-visual media services in relation to the plans for allocation of radio-frequency bands which are allocated for the purposes of broadcasting services.
- (5) Radio-frequency assignment plans shall be published in the "Official Gazette of Montenegro" and on the website of the Agency.

Use of radio-frequencies

Article 99

- (1) Natural and legal persons may use radio frequencies based on the approval for use of radio frequencies issued by the Agency.
- (2) The state administration body in charge of defence activities may use radio-frequencies which are allocated for military use under the Radio-Frequency Spectrum Allocation Plan, without the approval for the use thereof.
- (3) More detailed information on the use of radio-frequencies referred to in paragraph 2 of the Article hereof shall be submitted to the Agency, upon request.
- (4) Exceptionally from paragraph 1 of this Article, radio-frequencies which may be used without the approval, and the terms of their use, as well as radio-frequencies the use of which is mandatory to be reported to the Agency, shall be defined by the regulation of the Ministry.
- (5) The method of reporting the use of radio-frequencies referred to in paragraph 4 of the Article hereof shall be prescribed by the Agency.

Issuing approvals for use of radio-frequencies

Article 100

- (1) The approval for the use of radio-frequencies shall be issued by the Agency based on the application for the approval of use thereof.
- (2) The approval for the realisation of radio-frequencies from the bands which are assigned on the territory of Montenegro on an exclusive basis shall be issued based on the procedure of public tendering if under the appropriate radio-frequency assignment plan for the use of public electronic communications network and/or in accordance with Article 105 of this Law it is established that the expressed interest surpasses the availability of radio-frequency resource. .

Procedure for issuing approvals for the use of radio-frequencies, upon application

Article 101

- (1) The procedure for issuing approvals for the use of radio-frequencies shall be initiated by the submission of application of a natural or legal person.
- (2) The application for the issue of approval for use of radio-frequencies shall include:
 - 1) for natural person – name and surname, personal identity number and address and/or

name and surname, date and place of birth, passport issuing country or identity card and the number of such document for a foreign natural person;

- 2) for legal person – name of company, seat, statistical and registration number, account number and name and surname of a representative;
 - 3) data on radio-frequency band, type of radiocommunication service and type of connection for which the application is submitted;
 - 4) explanation of the reasons for use of radio-frequencies.
- (3) In addition to the application referred to in paragraph 1 of the Article hereof, the applicant shall submit technical solution for the use of radio-frequencies on the prescribed form.
- (4) The applicant referred to in paragraph 1 of the Article hereof shall pay to the Agency the fee for handling the application, and the amount of such fee shall be determined by the Agency, however, it may not exceed actual application handling costs.
- (5) The fee referred to in paragraph 4 of the Article hereof shall not be paid by the applicants referred to in Article 125 paragraph 3 of this Law.
- (6) The application form referred to in paragraph 3 of this Article shall be prescribed by the Agency.

Deciding upon application

Article 102

- (1) The Agency shall decide upon the applications for approval of use of radio-frequencies in the order in which they have been received, except when the approval for use of radio-frequencies is issued based on the procedure of public tender.
- (2) The Agency shall not issue the approval referred to in paragraph 1 of this Article if it finds that:
 - 1) application has not been submitted in accordance with Article 101 paragraphs 2, 3 and 4 of this Law;
 - 2) application is not in accordance with the Radio-Frequency Spectrum Allocation Plan or related Radio-Frequency Assignment Plan;
 - 3) radio-frequencies which are the subject of application are not available;
 - 4) approval for radio-frequencies is not in accordance with the principles of rational use of radio-frequency spectrum or Article 38 of this Law;
 - 5) the operation of radio devices may produce harmful effects on the operation of other electronic communications systems or facilities and/or on environment and human health;
 - 6) the applicant for use of radio-frequencies allocated to broadcasting service under the Radio-Frequency Spectrum Allocation Plan does not have the approval of the regulatory body in charge of audio-visual media services for broadcast of radio and/or television programmes.

Amateur radio communications

Article 103

The Agency shall prescribe the manner of use of radio-frequencies allocated to amateur radio communications service under the Radio-Frequency Spectrum Allocation Plan, class of radio-amateurs, examination programme and sitting for amateur radio examination, technical and other conditions for use of amateur radio stations..

Limiting number of approvals for use of radio-frequencies

Article 104

Under the Radio-Frequency Assignment Plan from a particular band, the Agency may introduce the limitations in the number of approvals for use of radio-frequencies for particular types of radiocommunications networks or wireless access technologies, on the principle of proportionality and on equal terms, for the purpose of:

- 1) avoiding harmful interference;
- 2) protection of environment and human health against the effects of electromagnetic radiation;
- 3) achieving maximum benefits for users and promoting competition;
- 4) ensuring service quality;
- 5) providing efficient use of radio-frequency spectrum;
- 6) achieving the objectives in public interest.

Review of interest in the use of radio-frequencies

Article 105

- (1) If upon the expressed interest of at least one natural or legal person the Agency finds that there may be an increased interest in the use of radio-frequencies from the band for which the number of approvals is limited according to Article 104 of this Law and which could surpass the available radio-frequency resources, it shall be obliged to announce a public invitation for expression of interest for the use of relevant radio-frequencies.
- (2) The public invitation referred to in paragraph 1 of the Article hereof shall be published in minimum one print media distributed in the territory of Montenegro and on the website of the Agency.
- (3) In public invitation referred to in paragraph 1 of the Article hereof the Agency shall require from interested natural and legal persons the information relating to the planned manner and terms of use of radio-frequencies, intended services and the evidence of professional and financial capabilities for the implementation of the project.
- (4) The deadline for expression of interest upon the public invitation referred to in paragraph 1 of the Article hereof shall not be shorter than 30 days from the date of publication of the public invitation.
- (5) The Agency shall decide on the need to conduct public tender in accordance with Article 106 of this Law, within 45 days from the date of interest expressed in accordance with paragraph 3 of this Article.

Public tender procedure

Article 106

- (1) In the cases referred to in Article 100 paragraph 2 of this Law, the procedure of public tender shall be conducted by the Agency.
- (2) By means of a Decision, the Agency shall initiate the procedure for public tender within 30 days from the date of the Decision referred to in Article 105 paragraph 5 of this Law and/or on the date when the interest is expressed in the realisation of radio-frequencies from the bands which are assigned on an exclusive basis on the territory of Montenegro, under the appropriate radio-frequency assignment plan for the use of public electronic communications network.
- (3) The Decision referred to in paragraph 2 of this Article shall include as mandatory:
 - 1) radio-frequencies which are the subject of public tendering in the area in which they may be used;
 - 2) type of public tender (sealed bid tender or auction);
 - 3) terms, requirements and eligibility to be met by the participants in the public tender procedure;
 - 4) the minimum amount of lump sum fee for granting approval for use of radio-frequencies;
 - 5) criteria for selection of the most advantageous bid and the method of evaluation in the public tender procedure through submission of sealed bids;
 - 6) deadline and manner of submission of bid or application for participation in auction;
 - 7) address, place, date and time of public opening of bids or conduct of an auction;
 - 8) details of a contact person in charge of providing information relevant for public tender procedure;
 - 9) price of purchase, method of payment and manner of taking over the tender documents;
 - 10) tender guarantee;
 - 11) deadline within which the bidders shall be informed of the outcome of the public tender.
- (4) The minimum amount of the lump sum fee referred to in paragraph 3 item 4 of this Article and the amount of tender guarantee shall be determined by the Ministry.
- (5) The price for purchase of tender documents referred to in paragraph 3 item 9 of this Article shall be determined by the Agency, in the amount of actual costs of the documents' development.
- (6) The Agency shall decide on the selection of bidders within 30 days from the date of public opening of bids or the date of an auction.
- (7) The amount of lump sum fee generated in the public tender procedure shall be paid to the

budget of Montenegro within 15 days from the date of Decision referred to in paragraph 6 of this Article.

Deadline for submission of bid or application for participation in auction

Article 107

- (1) The deadline for submission of bid or application for participation in auction shall not be shorter than 30 or longer than 90 days from the date of the Decision referred to in Article 106 paragraph 2 of this Law.
- (2) The Agency is obliged to keep confidential the list of participants in the public tender procedure or the applications for participation in auction until the expiry of the deadline referred to in paragraph 1 of the Article hereof.

Tender documents

Article 108

In the tender documents, the Agency shall specify and clarify the terms, requirements and other elements of the decision on initiation of public tender procedure, the procedure of public tendering, the procedure of public opening of bids or the format and rules of the auction, deadlines of particular procedure phases and the criteria for the selection of bidders with the method of their evaluation.

Opening and evaluation of bids

Article 109

- (1) In the procedure of public opening of bids, the Agency shall consider only those bids which were timely submitted.
- (2) The procedure referred to in paragraph 1 of the Article hereof shall include the verification of whether the bid was submitted in accordance with the tender documents and whether the bidder meets all requirements prescribed in the tender documents and this Law.
- (3) The Agency shall not consider the bids which were not submitted in accordance with the tender documents or the bids of the bidder who does not meet the requirements prescribed in the tender documents and this Law.

Consideration of bids

Article 110

Upon the completion of opening and evaluation of bids, the bids shall be considered in accordance with the criteria defined in the Decision on initiation of public tender and a ranking list of bidders shall be made.

Consideration of applications for participation in auction

Article 111

- (1) In the procedure for consideration of timely submitted applications for participation in auction, the Agency shall examine the eligibility of the bidder interested in participation in auction and/or verify whether the application for participation in auction was submitted in accordance with tender documents and whether the applicant meets all requirements prescribed in the tender documents and this Law.
- (2) The Agency shall refuse the application for participation in auction of the bidder which does not meet the requirements prescribed by the tender documents and this Law.

- (3) Upon the completion of the auction procedure, the ranking list of auction participants shall be made.
- (4) More detailed procedure of opening, consideration and evaluation of bids or applications for participation in auction shall be prescribed by the Agency.

Making a decision

Article 112

- (1) Based on the ranking list referred to in Article 110 of this Law and/or Article 111 paragraph 3 of this Law, the Agency shall make a decision on the selection of the bidder in the procedure of public tender.
- (2) Based on the decision referred to in paragraph 1 of the Article hereof, the selected bidder shall apply for approval of use of radio-frequencies in accordance with Article 101 paragraph 2 item 1, 2 and 3 and paragraph 4 of this Law.
- (3) The Agency shall issue approval for use of radio-frequencies upon a duly submitted application referred to in paragraph 2 of this Article and evidence of the payment of fee for the issue of approval.

Content of approval for use of radio-frequencies

Article 113

- (1) The approval for use of radio-frequencies shall contain the data on:
 - 1) holder of the approval for use of radio-frequencies;
 - 2) assigned radio-frequencies;
 - 3) location of transmitter and/or receiver and area of coverage;
 - 4) validity period of the approval for use of radio-frequencies;
 - 5) amount of annual fee for use of radio-frequency and/or administration of radio-frequency spectrum and method of payment thereof;
 - 6) conditions for use of assigned radio-frequencies.
- (2) The approval for use of radio-frequencies which are assigned to broadcasting service under the Radio-Frequency Spectrum Allocation Plan, in addition to the data referred to in paragraph 1 of this Article, shall include the identification of audio-visual media content and the information contained in the approval for broadcast of radio and/or television programmes issued by the regulatory body in charge of audio-visual media services.
- (3) The users of radio-frequencies shall inform the Agency of the change in data referred to in paragraph 1 item 1 and paragraph 2 of the Article hereof, within 30 days from the date of change.

Terms of use of the approved radio-frequencies

Article 114

- (1) In the approval for use of radio-frequencies the Agency shall stipulate the terms defining:
 - 1) purpose of service, type of network or technology for which the right to use radio-frequencies is granted;
 - 2) measures ensuring effective use of radio-frequencies, including, where necessary, the requirements relating to coverage or strength of signal;
 - 3) technical and operational conditions necessary for avoiding harmful interference;
 - 4) additional obligations assumed in the public tender procedure by the bidder;
 - 5) obligations in accordance with international agreements and regulations in the area of radio-frequencies.
- (2) Technical and operational conditions for exclusive use of radio-frequencies referred to in paragraph 1 item 3 of this Article on particular location and/or coverage areas shall be determined by a special regulation of the Agency, upon the application of the approval holder, with the validity period until the expiry of the approval for use of radio-frequencies.

Validity period of the approval for use of radio-frequencies

Article 115

- (1) The Agency shall issue the approval for use of radio-frequencies for the period of up to five years. For the exclusive use of radio-frequencies on the territory of Montenegro, the validity period shall be maximum 15 years.
- (2) The approval for use of radio-frequencies from the bands which are allocated to a broadcasting service under the Radio-Frequency Spectrum Allocation Plan shall be issued until the expiry of validity of the appropriate approval for broadcast of radio and/or television programmes issued by the regulatory body in charge of audio-visual media services.

Temporary approval for use of radio-frequencies

Article 116

- (1) For the use of radio-frequencies intended for inspection, measuring and testing of radiocommunications equipment for the limited coverage area, the Agency shall issue temporary approvals for the period of up to 90 days.
- (2) For the use of radio-frequencies in case of unexpected events, including sports, cultural and entertainment events of a temporary nature, the Agency shall issue temporary approvals for the period of up to 60 days and, in the event of an emergency situation, for the duration period of emergency situation.
- (3) For temporary use of radio-frequencies referred to in paragraph 1 and 2 of the Article hereof, the fee shall be paid in accordance with the regulation of the Ministry referred to in Article 124 paragraph 3 of this Law.

Extension of approval validity period for use of radio-frequencies

Article 117

- (1) Validity period for use of radio-frequencies may be extended upon the application of the

approval holder if the requirements defined in the approval for use of radio-frequencies have been met.

- (2) The application for extension of the validity period of the approval for use of radio-frequencies shall be submitted to the Agency not later than 90, and not earlier than 30 days prior to the expiry of approval validity.
- (3) In the event that for the use of public electronic communications network the radio-frequencies are realized on the territory of Montenegro on the exclusive basis, the Agency shall ex officio or at the application of the radio-frequency user initiate a public tender procedure not later than six months prior to the expiry of the approval validity period.

Transfer and/or assignment of rights to use radio-frequencies

Article 118

- (1) The right to use radio-frequencies may be transferred and/or assigned to the other legal or natural person based on the joint application of the approval holder and the person to whom the right to use radio-frequencies is transferred and/or assigned, only with the approval of the Agency.
- (2) The right to use radio-frequencies may be transferred and/or assigned only to the legal or natural person who meets all requirements for the issue of approval for use of radio-frequencies defined therein.
- (3) In deciding on granting the approval for transfer and/or assignment of rights to use radio-frequencies for public electronic communications network, the Agency shall particularly take into account the application of management efficiency principles in relation to radio-frequency spectrum and/or the application of other principles referred to in Article 3 of this Law in relation to transfer and/or assignment of radio-frequencies.
- (4) For transfer and/or assignment of rights to use radio-frequencies from the bands which are allocated to broadcasting service under the Radio-Frequency Spectrum Allocation Plan, the applicant shall previously obtain the approval of the regulatory body in charge of audio-visual media services.
- (5) Upon granting the approval referred to in paragraph 1 of the Article hereof, the Agency shall issue the approval for use of radio-frequencies to the person to whom the right to use radio-frequencies is transferred, upon the application referred to in Article 101 paragraph 2 items 1, 2 and 3 of this Law.
- (6) Upon the transfer of right to use radio-frequencies, the rights and obligations defined in the previous approval for use of radio-frequencies shall be fully transferred from the previous approval holder to the successor.

Amendment to the approval for use of radio-frequencies

Article 119

- (1) The Agency may amend the approval for use of radio-frequencies if:
 - 1) the amendment occurs in the Radio-Frequency Spectrum Allocation Plan, Assignment Plan or regulations defining the conditions for use of radio-frequencies;

- 2) established public interest cannot be met in any other way;
 - 3) the amendment is necessary for the purpose of effective use of radio-frequency spectrum;
 - 4) harmful interference or excessive emission cannot be eliminated in any other way;
 - 5) the amendment occurs in the relevant approval for broadcast of radio and/or television programmes issued by the regulatory body in charge of audio-visual media services;
 - 6) the amendment is necessary for the purpose of compliance with international agreements and other regulations.
- (2) Upon the consultations conducted with the approval holder for use of radio-frequencies, the Agency shall issue amended approval and set an appropriate deadline within which the approval holder shall be obliged to align its use of radio-frequencies with the new conditions.
- (3) In the events referred to in paragraph 1 i t e m 1 a n d i t e m s 3 t o 6 of this Article, the approval holder shall, at its own expense, align the use of radio-frequencies with the new conditions defined in the amended approval.
- (4) If the approval is amended upon the application of approval holder, the approval shall be issued under the conditions defined in this Law and in the manner in which the rights of other users of radio-frequencies shall not be violated.

Revocation of approval for use of radio-frequencies

Article 120

- (1) The Agency shall revoke the approval for use of radio-frequencies if it finds that:
- 1) incorrect data were specified in the application for approval;
 - 2) approval holder does not comply with the conditions prescribed in this Law or in the approval;
 - 3) deficiencies were not eliminated within the prescribed time limit and upon the request of the Agency;
 - 4) in the event of prohibition to carry on the business activity in accordance with the Law;
 - 5) fees for use of radio-frequencies have not been paid even after the warning of the Agency;
 - 6) harmful interference cannot be avoided in any other way.
- (2) Fees referred to in Article 124 of this Law, which are paid for the year in which the approval for use of radio-frequencies was revoked, shall not be returned, except in the event referred to in paragraph 1 item 6 of the Article hereof.

Expiration of validity period of the approval for use of radio-frequencies

Article 121

- (1) The approval for use of radio-frequencies shall expire:

- 1) Upon the expiry of the period for which the approval was issued;
 - 2) upon the request of the approval holder;
 - 3) by transfer of right to use radio-frequencies onto another person;
 - 4) if the approval holder ceases to exist;
 - 5) if the approval holder has not started to use radio-frequencies within the period defined in the approval and maximum within the period of one year from the date of approval;
 - 6) upon the expiry of validity period of the relevant approval for broadcast of radio and/or television programme issued by the regulatory body in charge of audio-visual services, for radio-frequencies which are allocated to broadcasting service under the Radio-Frequency Spectrum Allocation Plan.
- (2) The fees referred to in Article 124 of this Law, which are paid for the year in which the approval for use of radio-frequencies has expired, shall not be returned.

Registry of approved radio-frequencies

Article 122

- (1) Assigned radio-frequencies shall be registered by the Agency in the Registry of approved radio-frequencies.
- (2) The Registry referred to in paragraph 1 of the Article hereof shall particularly include the information on holder of the approval for use of radio-frequencies, approved radio-frequencies, terms of use of radio frequencies, location of fixed radio station, geographic area of use and other necessary data.
- (3) Change of data in the Registry of approved radio-frequencies shall be recorded and updated.
- (4) More detailed content of the Registry of approved radio frequencies shall be prescribed by the Agency.

Control and monitoring of radio-frequency spectrum

Article 123

- (1) The Agency shall perform the control and monitoring of radio-frequency spectrum in accordance with this Law and appropriate international technical regulations and standards.
- (2) The Agency shall plan, develop and improve the system for control and monitoring of radio-frequency spectrum.
- (3) In the procedure of control and monitoring of radio-frequency spectrum the Agency shall, in particular:
 - 1) conduct appropriate measurements of parameters of radio emissions to establish the occupancy of particular radio-frequency bands, in accordance with this Law and appropriate international technical regulations and standards and
 - 2) identify the source, location and illegal radio emissions and source of harmful interferences.

- 3) perform adequate measurements of radio emissions parameters with a purpose meeting conditions for the use of radio frequencies from the appropriate approval.

Fees for use of radio-frequencies

Article 124

- (1) Holder of the approval for use of radio-frequencies shall pay to the Agency the annual fee for use of radio-frequencies.
- (2) The fee referred to in paragraph 1 of the Article hereof shall be used solely for covering the costs of radio-frequency spectrum management and supervision.
- (3) Methodology and manner of the calculation of fee referred to in paragraph 1 of this Article, expressed in points, shall be prescribed by the Ministry.
- (4) The amount of fees defined in accordance with the regulation of the Ministry referred to in paragraph 3 of the Article hereof shall be included in the financial plan of the Agency for the subsequent calendar year.
- (5) By adopting the financial plan of the Agency, the Parliament shall approve the amount of total annual costs of management and supervision of radio-frequency spectrum for the subsequent calendar year, based on which the Agency shall determine the cash value of a point referred to in paragraph 3 of the Article hereof.
- (6) The holder of the approval for use of radio-frequencies shall pay the annual fee for covering the costs for administration of radio-frequency spectrum, according to the price list determined by the Government, which may not exceed 10% of the fee referred to in paragraph 1 of the Article hereof.
- (7) The fee referred to in paragraph 6 of the Article hereof shall be paid for the current year to the budget of Montenegro up to 31 December.

Calculation of fees

Article 125

- (1) The fees referred to in Article 124 paragraphs 1 and 6 of this Law shall be calculated from the date of approval for use of radio-frequencies, for the year in which the approval was issued and/or until the expiry of the approval validity period.
- (2) The amount of fees referred to in paragraph 1 of the Article hereof shall be determined by the Agency under the Decision issued for each calendar year.
- (3) The fees referred to in paragraph 1 of the Article hereof shall not be paid by:
 - 1) competent state bodies, for the radio-frequencies used for the purposes of internal affairs, national security and defence;
 - 2) emergency services, for the radio-frequencies used for the purposes of acting in emergency situation and protection against natural and other disasters;
 - 3) broadcasters of radio and/or television programmes and/or a multiplex transmission network operator for digital broadcasting for the radio-frequencies allocated to

broadcasting service under the Radio-Frequency Spectrum Allocation Plan;

- 4) broadcasters of radio and/or television programmes or other subjects which for the purposes of broadcasters supply radio and/or television signals to the terrestrial broadcasting transmitters, for the radio-frequencies used for such purpose and for the radio-frequency resource which is deemed necessary;
- 5) radio amateurs, for radio-frequencies allocated to amateur radio communications;
- 6) users exempted from payment under an international treaty.

Radio and telecommunications terminal equipment

Article 126

- (1) Radio and telecommunications terminal equipment (hereinafter referred to as R&TTE) may be freely imported, introduced to the market, and used in Montenegro if it meets the conditions for protection and safety of users and other persons and the conditions for environmental protection, and if it enables effective use of frequency spectrum i.e. if its use does not cause harmful interference, provided that it fulfils other conditions stipulated by the Law.
- (2) The provision of paragraph 1 of the Article hereof shall apply to other devices and equipment for the operation of which radio-frequencies or operator services are used.
- (3) The provision of paragraph 1 of the Article hereof shall not apply to:
 - 1) R&TT equipment used by radio amateurs, except for amateur equipment which is available in the free market;
 - 2) radio and television receivers intended solely for the reception of radio and television programmes;
 - 3) cable installations;
 - 4) R&TT equipment intended for maritime radio communications, which meets all the conditions stipulated by special regulations;
 - 5) R&TT equipment for civil aircraft radio communications intended solely for installation in the aircraft;
 - 6) R&TT equipment used solely for the purposes of the military, police and security services of Montenegro.
- (4) The approval for R&TT equipment operating in the radio-frequency band other than a European harmonized radio-frequency band and other than in accordance with the Radio-Frequency Spectrum Allocation Plan, shall be issued by the Agency in accordance with the regulation in paragraph 2 of the Article hereof.
- (5) More detailed requirements to be met by R&TT equipment, manner and procedure of assessment of R&TT equipment conformity, the conditions to be fulfilled by the body for assessment of R&TT equipment conformity and marking thereof shall be prescribed by the

Ministry.

Restriction of electromagnetic field strength
Article 127

R&TTE equipment and elements of electronic communications networks may be used in the manner and under the conditions which ensure that parameters of electromagnetic fields on a particular location do not exceed the limits stipulated by the law regulating the protection against non-ionising radiation and by Montenegrin standards and international standards applicable in Montenegro.

IX NUMBERING AND ADDRESSING
Numbering and addressing management
Article 128

- (1) Numbering and addressing management, in accordance with this law, shall include planning and allocation of numbers and addresses, as a limited resource, in the manner which ensures their rational, even and efficient use in accordance with the Numbering Plan and Addressing Plan.
- (2) Numbering and addressing shall be managed by the Agency, in accordance with the Numbering Plan and Addressing Plan.

Numbering Plan and Addressing Plan
Article 129

- (1) Numbering Plan shall determine: allocation and manner of use of the numbers for access to the public electronic communications networks and public electronic communications services and length, type and structure thereof.
- (2) Addressing Plan shall include: definitions and structure of codes of the international signalling points, codes of national signalling points, mobile network codes, data network identification code and manner of management.
- (3) Numbering Plan and Addressing Plan provide efficient structuring and use of numbers and addresses by defining equal requirements for allocation to and use of appropriate numbers and addresses by the public electronic communications networks and publicly available electronic communications services or meeting the demands of operators and users of publicly available electronic communications services.
- (4) Amendments and supplements to the Numbering Plan or Addressing Plan may be made for the purpose of fulfilling the obligations arising from international treaties and agreements and creating conditions for introduction of new publicly available electronic communications services, based on the assessment of effects of the proposed amendments and supplements and, in particular, relative to the costs incurred by the operators and service users in the course of adjustment.
- (5) If the amendments and supplements to the Numbering Plan and Addressing Plan materially affect the numbering and/or addressing system or impose the implementation which is technologically demanding, the deadline for the implementation of plan cannot be shorter than six months from the effective date of the plan.

- (6) Plans referred to in paragraph 1 and 2 of the Article hereof shall be adopted by the Agency and published in the „Official Gazette of Montenegro“ and on the Agency website.

Using numbers and /or addresses

Article 130

- (1) The operator may use the numbers and/or addresses from the Numbering Plan and Addressing Plan under the approval for use of numbers and/or addresses issued by the Agency.
- (2) The approval referred to in paragraph 1 of the Article hereof shall be issued upon the application of the operator for approval to use numbers and/or addresses, submitted in the prescribed form.
- (3) The Agency shall decide on the application referred to in paragraph 2 of the Article hereof within 15 days from the date of application.
- (4) The approval for use of numbers and/or addresses shall be issued for the period which may not be longer than ten years.
- (5) Allocated numbers and/or addresses, upon approvals, shall be recorded in the Registry kept by the Agency.
- (6) The details on allocated numbers and addresses shall be published by the Agency on its website.

Application for the approval for use of numbers and/or addresses

Article 131

- (1) In the application for approval referred to in Article 130 of this Law, the following shall be specified:
 - 1) name and address of the operator;
 - 2) numbers and /or addresses applied for;
 - 3) type of public electronic communications network or service for which the use of numbers and/or addresses is applied;
 - 4) planned beginning date for use of numbers and /or addresses;
 - 5) period in which the use of numbers and/or addresses is planned;
 - 6) purpose of use of numbers and/or addresses.
- (2) The applicant referred to in paragraph 1 of the Article hereof shall pay to the Agency the application handling fee the amount of which shall be determined by the Agency and which shall not exceed the actual application handling costs.
- (3) The Agency shall decide on applications for approval of numbers and/or addresses in the order in which they have been received.
- (4) The Agency shall refuse the application referred to in paragraph 1 of the Article hereof if it

finds that:

- 1) the application for approval of numbers and/or addresses does not contain the elements referred to in paragraph 1 of the Article hereof;
 - 2) the application for approval of numbers and/or addresses contains incorrect information;
 - 3) the application was not submitted in accordance with the Numbering Plan and Addressing Plan;
 - 4) reasons for use do not justify the allocation of required quantity of numbers and/or addresses;
 - 5) requested numbers and/or addresses are not available;
 - 6) the applicant did not pay the fee for use of numbers and/or addresses under previously issued approvals.
- (5) The application form referred to in paragraph 1 of the Article hereof shall be prescribed by the Agency.

Content of approval for use of numbers and/or addresses

Article 132

Approval for use of numbers and/or addresses shall contain:

- 1) data on holder of the approval;
- 2) approved numbers and/or addresses;
- 3) purpose of use of the approved numbers and/or addresses;
- 4) beginning date for use of approved numbers and/or addresses;
- 5) period for which the approval of numbers and /or addresses is issued;
- 6) terms for use of the approved numbers and/or addresses.

Terms for use of numbers and/or addresses

Article 133

For the approval holder, the approval for use of numbers and/or addresses shall define:

- 1) use of allocated numbers and/or addresses in accordance with the Numbering Plan and Addressing Plan;
- 2) purpose of allocated numbers and/or addresses;
- 3) beginning date for the use of allocated numbers and/or addresses, which may not exceed one year from the date of approval;
- 4) obligation to keep records on numbers and/or addresses used or given for use and to submit to the Agency, upon request, the data contained in the records;

- 5) obligation to provide information on subscriber telephone numbers;
- 6) amount of annual fee for use of numbers and/or addresses;
- 7) meeting the subscriber demands for number portability in accordance with this Law;
- 8) fulfilment of obligations arising from international agreements and treaties in connection with numbers and/or addresses and allocation and use thereof.

Transfer or assignment of the right to use numbers and/or addresses

Article 134

- (1) The right to use numbers and/or addresses can be transferred or assigned to other legal or natural person only with the approval of the Agency.
- (2) The Agency shall decide on the approval referred to in paragraph 1 of this Article upon the application of the approval holder, within 30 days from the date of application.
- (3) In deciding upon application referred to in paragraph 2 of this Article, the Agency shall determine whether the legal or natural person proposed for the transfer or assignment of the right to use numbers and/or addresses meets the conditions stipulated in this Law.
- (4) The approval holder can, without the approval of the Agency, assign to its subscribers appropriate numbers specified in the Numbering Plan, if such possibility for assignment is anticipated in the approval referred to in Article 130 paragraph 1 of this Law, as well as the numbers transferred to another operator, in accordance with the provisions of this Law regulating number portability.

Amendment to the approval for the use of numbers and /or addresses

Article 135

- (1) The Agency may amend the approval for the use of numbers and/or addresses based on the amendments and supplements to the Numbering Plan and/or Addressing Plan, within 30 days from the beginning date of their application.
- (2) In the event referred to in paragraph 1 of the Article hereof, the approved numbers and/or addresses shall be replaced by the same quantity and type within the period which may not be shorter than six months from the date of receipt of the amended approval.
- (3) In the event of replacement of numbers and/or addresses referred to in paragraph 2 of the Article hereof, the operator and end user of services shall not be entitled to the recovery of costs incurred by the replacement.
- (4) The approval referred to in paragraph 1 of the Article hereof may be amended upon the application of the approval holder, in accordance with the law, if such amendment does not infringe upon the rights of the third parties.

Revocation of approval for use of numbers and/or addresses

Article 136

- (1) The Agency shall revoke the approval for use of numbers and/or addresses if:
 - 1) the approval for use of numbers and/or addresses was issued based on the incorrect

information;

- 2) the approval holder does not comply with the conditions stipulated in this Law or approval;
 - 3) the holder of the approval for use of numbers and/or addresses did not start using the assigned numbers and/or addresses within one year from the date of assignment thereof;
 - 4) annual fee for the use of numbers and/or addresses is not paid, even after the warning thereof;
 - 5) carrying out of the business activity is prohibited in accordance with the law;
 - 6) significant amendments are made to the Numbering Plan or Addressing Plan and the approval cannot be changed due to the unavailability of adequate resources.
- (2) In accordance with the Agency's decision on revocation of numbers and/or addresses, the operators shall be obliged to disconnect such numbers and/or addresses from public telephone networks within the period determined in the Decision.
- (3) The fee for use of numbers and/or addresses which is paid for the year in which the approval for use was revoked, shall not be returned.
- (4) In the event of revocation of approval for use of numbers and/or addresses for the reasons referred to in paragraph 1 item 6 of the Article hereof, operators and users shall not be entitled to the recovery of costs.

Expiration of validity of approval for use of numbers and/or addresses

Article 137

- (1) The approval for use of numbers and/or addresses shall expire:
- 1) upon the expiry of the period for which the approval was issued;
 - 2) upon the request of the approval holder;
 - 3) upon the transfer of right to use numbers and/or addresses onto another person;
 - 4) if the approval holder ceases to exist;
- (2) The fee referred to in Article 138 of this Law, which is paid for the year in which the approval for use of numbers and/or addresses expired, shall not be returned.

Fee for the use of numbers and/or addresses

Article 138

- (1) The holder of the approval for the use of numbers and/or addresses shall pay to the Agency an annual fee for use of numbers and/or addresses, which may be used solely to cover the costs of supervision and management of numbers and/or addresses.
- (2) The methodology and method for the calculation of fee referred to in paragraph 1 of the Article hereof, which is expressed in points, shall be prescribed by the Ministry.

- (3) The amounts of fees determined in accordance with the regulation of the Ministry referred to in paragraph 2 of the Article hereof shall be included in the financial plan of the Agency for the subsequent calendar year.
- (4) In adopting the financial plan of the Agency, the Parliament shall approve the amount of total annual costs of supervision and management of numbers and/or addresses for the subsequent calendar year, based on which the Agency shall determine the cash value of a point referred to in paragraph 2 of the Article hereof.
- (5) The fee referred to in paragraph 1 of the Article hereof shall be paid for the numbers used for calls to emergency services and „116“ harmonized number range.
- (6) The fee referred to in paragraph 1 of the Article hereof for ported numbers shall be paid by the operator to which the numbers have been ported, whereby for the calculation of the fee, the balance at the beginning of the year for which the fee is calculated shall be used.
- (7) The fee referred to in paragraph 1 of the Article hereof shall be calculated from the date of issue of the approval for use of numbers and/or addresses, for the year in which the approval was issued and/or until the expiry of the approval validity period.

Number portability

Article 139

- (1) The operator of publicly available telephone services shall enable its subscribers, upon their request, to retain their numbers assigned under the Numbering Plan independently of the change of the operator:
 - 1) at a specific location, in the case of geographic numbers;
 - 2) at any location, in the case of non-geographic numbers.
- (2) The obligation referred to in paragraph 1 of the Article hereof shall not refer to the number portability between the operators which provide services on fixed location and operators providing the services of mobile electronic communications.
- (3) The operator shall, at its own expense, adjust its networks so as to enable and maintain number portability functions.

Fee for number portability service

Article 140

- (1) The subscriber which ports the number shall pay a lump sum fee to the operator for porting the number to its network.
- (2) The receiving operator shall pay the portability service fee to the donor operator.
- (3) The fee referred to in paragraph 2 of the Article hereof shall be paid to the amount of actual costs of number portability and must not have destimulating effects on the use of number portability option.
- (4) The Agency shall determine the maximum amount of lump sum fee referred to in paragraph 1 of the Article hereof payable by the subscriber and the manner of distribution of such fee between the operators.

- (5) The operator of network in which call was generated shall pay costs to the operator in whose network call to the ported number is terminated, according to the interconnection contract.
- (6) The provisions on minimum term of subscriber agreement shall not present a limitation or barrier for the subscriber requesting to port the number to another operator.
- (7) The operator shall submit to the Agency the data on numbers ported in the previous year i.e. cumulative data on numbers ported to other operators as well as the information on the sum of numbers ported to such operator, until 15 January of the current year.

Implementation of number portability

Article 141

- (1) The operator is obliged to implement the number portability and connection to the network in the shortest possible time, with compliance to the technical possibilities of the operator.
- (2) The number of the subscriber, who concluded an agreement for number portability to another operator, must be activated within one work day.
- (3) The subscriber`s loss of service during the number portability process must not last longer than one working day.
- (4) Provisions which define terms and the termination process of the contract must not impose limitations or restrictions to the subscriber who demands number portability to another operator, regardless of the minimal duration of the contract.
- (5) The Agency is obliged to provide management of the information system for number portability and maintain the central database of transferred numbers.
- (6) The Agency can transfer the management of the information system mentioned in paragraph 5 of this Article to another legal entity.
- (7) More detailed conditions and methods of number portability in fixed and mobile networks, together with operator`s manner of handling number portability, are prescribed by the Agency in accordance to the regulations which regulate contracts, with technical feasibility and the need to provide continuous service to a subscriber.

Single European Emergency Call Number "112"

Article 142

- (1) The operators of public telephone networks shall provide to all users free-of-charge calls to the Single European Emergency Call Number "112" in accordance with the Numbering Plan, including public pay telephones.
- (2) The operator referred to in paragraph 1 of this Article shall deliver, where technically feasible, promptly and free-of-charge, to the Operational Communication Centre, all available data on calls made to the "112" number and other emergency service numbers, in particular personal data on subscriber, the calling number, time and duration of the call and the location from which the call was made.
- (3) Manner and conditions for introduction of the Single European Emergency Call Number

“112” and the quality of service parameters for calls to that number shall be prescribed by the Ministry, with the approval of state administration body in charge of protection and rescue.

- (4) The operator shall enable the user to generate the call to the Single European Number “112”, in other ways, particularly via Short Textual Messages (hereinafter referred to as: SMS).
- (5) Service quality parameters referred to in paragraph 1 of the Article hereof, their limiting values and methods for measuring shall be prescribed by the Ministry.
- (6) The Agency, in cooperation with the state administration body in charge of protection and rescue, shall inform the citizens of the existence and use of Single European Emergency Call Number “112” in an appropriate and publicly available manner.

Emergency service numbers

Article 143

- (1) The operators of public telephone networks shall be obliged to ensure that all service users, including the users of public pay telephones, are able to call emergency call numbers, in accordance with the Numbering Plan, free of charge.
- (2) The operators referred to in paragraph 1 of the Article hereof shall be obliged to enable the emergency services, free of charge, incoming call identification (surname, name and address of subscriber) and call location, as soon as the call reaches the emergency service.
- (3) The operators referred to in paragraph 1 of the Article hereof shall enable the users to communicate with emergency services in other way, particularly via SMS.
- (4) The manner of correct and reliable identification of caller location shall be prescribed by the Ministry, with the approval of the state administration body in charge of internal affairs.
- (5) The abuse of calls to emergency service numbers shall be prohibited.
- (6) The Government, local-government unit and operators, within their competences, shall enable the persons with reduced mobility and persons with disabilities a free access to emergency service numbers and to the Single European Number “112”.
- (7) The manner, conditions and schedule for providing the access to persons referred to in paragraph 6 of the Article hereof shall be prescribed by the Ministry, with the approval of the state administration body in charge of social welfare.

“116” harmonized European number range

Article 144

- (1) The numbers within the numbering range beginning with “116” shall be reserved for particular services of social importance and/or for services with social and human value.
- (2) The number “116000” shall be reserved for calls to service competent for reporting the cases of missing children.
- (3) The Agency, in cooperation with the state administration body in charge of social welfare,

shall inform the citizens of the existence and use of “116” number range in an appropriate and publicly available manner.

- (4) The operators of public telephone networks and publicly available telephone services shall enable the users to generate calls to the numbers within the “116” number range.
- (5) The users shall generate calls to the numbers within the “116” number range free of charge, provided that the fee for such calls shall be paid by the services providing numbers within “116” number range, in accordance with the contract concluded with the operator.
- (6) More detailed method for use and the manner and conditions for assignment of numbers within “116” number range shall be prescribed by the Ministry, with the approval of the state administration body in charge of internal affairs, social welfare and health care.

Access to numbers and services

Article 145

- (1) The operators of public telephone networks shall enable the use of international access code “00” when making international calls.
- (2) Except in the event when the called subscriber has limited the access to the callers from particular geographic areas for the reasons of the market, the operator of publicly available telephone services shall provide the following when technically feasible and economically justifiable:
 - 1) the access to non-geographic numbers in the European Union;
 - 2) the access to all numbers used in the European Union, regardless of the technology and equipment used by the operator, including the numbers from the national numbering plans, numbers from the European Telephony Numbering Space (ETNS) and the Universal International Freephone Number (UIFN).
- (3) The operator of publicly available telephone services which enables international calls shall equally treat all calls to and from the numbers from the European Telephony Numbering Space (ETNS), at the prices which are comparable to the prices applied to the calls to the European Union member countries.
- (4) At the request of the Agency or independently, the operator shall block the access to particular numbers and services when this is justifiable, in the events of fraud or abuse.
- (5) The operator of public telephone networks or publicly available telephone services shall, when technically feasible and economically justifiable, enable the users from other countries to call non-geographic numbers defined in the numbering plan.

Management of the national Internet domain

Article 146

- (1) National Internet domain of Montenegro is '.me'.
- (2) Domain '.me' is managed by a person designated by the Government and the ccTLD manager (a person authorized for the management of the national Internet domain '.me').

- (3) Utilization of the domain '.me' is regulated by the Government regulation, in accordance with international standards.
- (4) Method and procedure of registration and domain usage, under the National Internet domain of Montenegro, is regulated by the Ministry's regulation, in accordance with international standards.

X RIGHTS AND PROTECTION OF INTERESTS OF USERS

Rights of users

Article 147

- (1) Exercising and protection of rights of users of public electronic communications services shall be carried out in accordance with the Law.
- (2) The user referred to in paragraph 1 of the Article hereof is a natural or legal person which uses or requests public electronic communications service.
- (3) The user of public electronic communications services shall be particularly entitled to:
 - 1) the access to public electronic communications network, within eight days from the date of application, provided that this is technically feasible;
 - 2) the unobstructed use of publicly available electronic communications services of declared quality, availability and safety, at publicly available prices;
 - 3) an itemized bill, for the provided services, which enables a clear overview of items and verification of the calculated amount of the provided service or an non-itemized bill, if the user requests it;
 - 4) protection of secrecy of electronic communications in accordance with this Law and the law regulating data confidentiality, protection of personal data and protection of undisclosed data and
 - 5) exercising of other rights in accordance with the Law.

General terms for provision of services

Article 148

- (1) The operator shall provide electronic communications services under the defined terms and at the defined prices.
- (2) The operator shall publish the information of prices, billing and general terms for provision of electronic communications services.
- (3) The manner of publishing the information referred to in paragraph 2 of this Article shall be prescribed by the Agency.
- (4) The operator shall define clear and unambiguous general terms for provision of services which shall particularly include:
 - 1) name and seat of operator;
 - 2) type, description and quality of provided services;

- 3) manner and terms for entry into, duration, transfer, extension, cancellation and termination of subscriber agreement, including the fees for early termination of the agreement;
 - 4) right of subscriber to limit spending;
 - 5) Information of the option to call the Single European Number („112“) and other emergency service numbers free of charge, of possibilities to provide information of caller location and of call restrictions to these numbers;
 - 6) provisions on fees and compensation of funds in the events when the agreed service quality level has not been reached or when by the fault of the operator the use of services is not enabled;
 - 7) provisions on initiation of the procedure for resolution of complaints and deciding upon the complaints of service users, including the procedures for resolution of disputes, referred to in Article 163 of this Law;
 - 8) measures taken in the event of outstanding debts for provided services and the deadline for enforcement of such measures;
 - 9) provisions on the procedure in the event of outstanding debts for provided services;
 - 10) procedure for conclusion of agreements via the means of remote communication and the agreements concluded outside the business premises of the operator, which must contain the provisions which are in accordance with the law regulating the electronic signature and protection of consumers.
- (5) The operator shall not:
- 1) condition the use of one service with the use of another;
 - 2) reserve the right to retain the funds paid by the subscriber who has waived the conclusion or implementation of the agreement if such right is not reserved for the user in the event that the operator waives the conclusion or implementation of the Agreement;
 - 3) impose on the subscriber a high fine which is not proportionate to the actual damage, in the event of non-fulfilment of contractual obligation;
 - 4) reserve the right to define the service price level at the moment of its provision or to increase the service price without granting the right to the subscriber to terminate the agreement if the final price exceeds the originally agreed one;
 - 5) request from the users of its services to pay the costs incurred from calls and communications which have not resulted from the access of users to the desired service;
 - 6) request from the users of its services to pay the costs incurred from calls and communications if it is established that the costs so incurred are the consequence of insufficient network safety;
 - 7) oblige the subscriber to fulfil all contractual obligations regardless of the fact whether the operator has fulfilled its contractual obligations;

- 8) include the costs of network reconstruction in the price of service payable by the users.

Approval and publication of general terms

Article 149

- (1) The operator shall submit the terms referred to in Article 148 paragraph 4 of this Law to the Agency for approval, 30 days prior to the application thereof.
- (2) In the procedure for granting approval the Agency shall consider the compliance of general terms with this Law.
- (3) The Agency shall assess the compliance of the terms with the Law, within 15 days from the date of receipt thereof.
- (4) After obtaining the approval referred to in paragraph 3 of the Article hereof, the operator shall publish the terms for provision of services on its website and in at least two print daily media distributed on the territory of Montenegro, and at the request of a user, it shall make them available, free of charge, in printed form, in all its offices or otherwise as appropriate.

Pricelist of services

Article 150

- (1) The operator shall publish the pricelist of services on its website prior to its application and shall make it available to the users in its offices.
- (2) The pricelist referred to in paragraph 1 of the Article hereof shall contain the prices of individual services, service packages, additional services, access fees and method of service calculation.
- (3) The prices referred to in paragraph 2 of the Article hereof shall include value added tax, provided that the tax is separately shown for each service.
- (4) The operator shall submit to the Agency the pricelist of services not later than eight days prior to their publishing on its website.
- (5) The Agency shall publish the pricelist referred to in paragraph 4 of the Article hereof on its website.
- (6) On its website, the Agency shall link the pricelist of services from the operator's website in order to enable the users to evaluate, free of charge, the costs arising from publicly available prices of public electronic communications services.

Subscriber agreement

Article 151

- (1) Mutual rights and obligations between the operator and subscriber to publicly available electronic communications services shall be regulated by the subscriber agreement, which shall be concluded in writing.
- (2) Subscriber agreement shall particularly include:
 - 1) name and address or name and seat of operator and subscriber;
 - 2) time limits and terms for connection to subscriber terminal equipment;

- 3) technical characteristics of terminal equipment offered to the user by the operator and detailed instructions for use of such equipment in Montenegrin language;
- 4) services, which shall particularly include:
 - option to call emergency services and option to provide information on caller location as well as limitations relating to emergency services;
 - information on conditions which restrict the access and/or use of services or applications, in accordance with the Law;
 - minimum service quality level offered in accordance with Agency regulation on service quality parameters;
 - information on procedures applied by the operator for measuring and managing traffic in order to avoid network congestion and the information of the manner in which such procedures may affect the service quality;
 - offered types of operator's maintenance services and support services provided to users and the manner in which such services can be contacted;
 - operator's limitations in the use of terminal equipment.
- 5) minimum broadband internet speed which may not be lower than 70% of maximum Internet access speed for the operators of fixed electronic communications networks, and for the operators of mobile electronic communications networks, the conditions for offered broadband Internet speed shall be specified;
- 6) prices and billing of services at the moment of agreement conclusion;
- 7) manner of informing about prices and service billing method, maintenance costs and offered payment methods and difference in costs arising from the payment method;
- 8) possibility to move and temporary disconnect subscriber terminal equipment;
- 9) measures to be applied in the event of default in payment of services, abuse of calls to emergency services, harassment of other users and violation of safety and integrity of electronic communications network;
- 10) manner of refunding the subscriber for the services which were not provided in accordance with the agreed quality and offered terms;
- 11) resolution of disputes;
- 12) informing subscribers of amendments to the terms defined in the agreement and of the manner in which subscriber can exercise his/her rights to agreement termination;
- 13) possibility to change and withdraw the user package which is subject to the agreement, the obligation of the operator to offer another package of similar characteristics or more favourable;
- 14) term of subscriber agreement, conditions for extension, amendments or termination

thereof, and particularly:

- minimum term for which the agreement is concluded, for the purpose of using promotional offers,
 - fees paid for number portability,
 - fees paid in the event of early termination of the agreement, including the fee for terminal equipment.
- 15) prohibition to end user to carry out the activity of electronic communications and/or to extend the service provided to him/her under the subscriber agreement to other users;
- 16) rights and obligations relating to the entry and deletion of personal subscriber data in the operator's directory;
- 17) type of measures available to operator as a response to safety incidents and incidents which jeopardize network integrity or pose a threat to network safety and integrity.

Term of agreement and obligations in the event of termination

Article 152

- (1) Subscriber agreement concluded for the definite term cannot be concluded for the term longer than two years.
- (2) The operator shall also offer subscriber agreements for the maximum term of one year and subscriber agreements for an indefinite time with no minimum term.
- (3) The subscriber shall have the right to terminate subscriber agreement at any time.
- (4) Subscriber agreement shall stipulate that the subscriber that terminates the agreement prior to the expiry of the term for which it has been concluded shall be obliged to pay a monthly fee for the remaining period for which the agreement is concluded or the fee in the amount of the discount for devices, equipment and services it has become entitled to, if the payment of such fee is more favourable for the subscriber, except in the case when the operator is not able to fulfil its contractual obligations as well as in the case referred to in paragraph 6 of this Article.
- (5) The operator shall, at least 30 days prior to the possible change of terms defined in the subscriber agreement, inform its subscribers thereof, in writing and in a clear, visible and unambiguous manner, as well as via SMS service, when possible.
- (6) The subscriber may cancel the subscriber agreement within the period referred to in paragraph 5 of this Article, without the payment of fee referred to in paragraph 4 of this Article and without the agreed cancellation period, if the changes are less favourable compared to the agreed general terms and prices.
- (7) The operator may limit the terminal equipment to the operation within its own network only if the subscriber takes the equipment from the operator upon the conclusion of subscriber agreement for the minimum term.

Obligations of operator and the Agency

Article 153

- (1) In the event of expiry or early termination of subscriber agreement, at the request of the subscriber, the operator shall promptly and free of charge, enable further use of terminal equipment in other networks.
- (2) The option referred to in paragraph 1 of this Article shall also be provided to the users of pre-paid service, after the expiry of 12 months from the service utilization, following the submitted evidence on purchase of terminal equipment.
- (3) In relation to a standard subscriber agreement, the operator shall obtain the approval of the Agency for each of the offered electronic communications services, prior to the provision thereof.
- (4) Operator may not enter with a user into a subscriber agreement for which the approval referred to in paragraph 3 of this Article has not been obtained.
- (5) The Agency shall assess the compliance of the standard subscriber agreement with this Law within 15 days from the date of the receipt thereof.
- (6) The subscriber agreement may be concluded by means of remote communication as well as outside the business premises of the operator, in accordance with the laws regulating electronic signature and protection of consumers.
- (7) In the event of an unauthorised disposal or misuse of the user's terminal equipment, the operator shall enable the user to check the International Mobile Equipment Identity (IMEI number) and, at the request of the user, prevent the use of such equipment in its network.

Connecting terminal equipment

Article 154

- (1) The operator shall meet a reasonable request of the user for connection to radio or telecommunications terminal equipment if the equipment meets all the requirements stipulated by the law.
- (2) The service user shall not connect to the public electronic communications network radio or telecommunications terminal equipment which does not meet the requirements referred to in Article 126 of this Law.
- (3) The operator may grant to the subscriber the option to pay the fee for connection to the public electronic communications network in instalments.
- (4) To the users who are the persons with reduced mobility and persons with disabilities, the operator shall, within feasible technical capacities:
 - 1) ensure unobstructed access to its services, including the unobstructed access to the emergency service numbers and Single European Number "112";
 - 2) enable availability of adequate terminal equipment;
 - 3) regularly inform of all characteristics of services which are intended for this user group;
 - 4) ensure priority in access to the network and in elimination of failures.
- (5) More detailed conditions for granting benefits referred to in paragraph 4 of this Article shall be prescribed by the Ministry, with the approval of the state administration body in charge of social welfare.

Quality of services

Article 155

- (1) The operator shall provide publicly available electronic communications services of a prescribed quality established by way of the subscriber agreement and the enactment of the Agency referred to in paragraph 3 of this Article.
- (2) The quality parameters, the manner of measurement and publication thereof by the Agency and by operators, as well as timeframes for delivery of measurements carried out by operators shall be prescribed by the Agency. .
- (3) For the purpose of preventing the service quality reduction or hindering or slowing down of traffic over the networks, the Agency shall prescribe the terms for minimum service quality.
- (4) For the purposes of complaints about the agreed Internet access speed in the fixed electronic communications network, the Agency shall make available to the users the measuring of Internet access speed.
- (5) The operator shall submit to the Agency the information of provided service quality within the deadlines defined in the regulation referred to in paragraph 2 of this Article and shall publish it on its website.
- (6) The Agency shall publish the information referred to in paragraph 5 of this Article as a comparative review of quality parameters for the same type of service of different operators.

Spending limitation and control

Article 156

- (1) At the request of the user, the operator shall enable free-of-charge limitation of spending for the accounting period.
- (2) At the request of the user, the operator shall provide free-of-charge outgoing call barring to a specific number or a group of numbers and/or SMS barring and multimedia messages barring (hereinafter: "MMS") to or from particular types of numbers.
- (3) The subscriber who requests the activation of services referred to in paragraphs 1 and 2 of this Article more than two times during the calendar year shall pay the fee to the operator, the amount of which shall be determined by the Agency, in accordance with the actual costs of the operator.
- (4) If technically feasible, the operator shall enable the users to block the access to numbers and Internet addresses through which adult content is accessed.
- (5) The operator shall keep and maintain the records of numbers and Internet addresses through which the adult content is accessed and shall exchange such data with other operators.
- (6) The Agency may require the operators to enable the subscribers to pay for the access to public electronic communications network and use of publicly available telephone services on a pre-paid basis.

Information on spending

Article 157

- (1) In the event that subscriber's spending exceeds his/her average spending in the last three months, the operator shall deliver free-of-charge notification to the subscriber via a telephone call or SMS, and keep the records on delivered information.
- (2) At the request of the subscriber, the operator shall submit to the subscriber the statement of current spending, which is not older than six hours, and for roaming communication, such statement shall contain spending in the last 24 hours.

Call forwarding

Article 158

- (1) The operator shall provide to the subscriber, at its request, a simple and free of charge call forwarding service to any number in its network or in the network of another operator.
- (2) Costs of forwarded calls shall be paid by the subscriber who has activated such service.
- (3) In case that an operator refuses to provide call forwarding referred to in paragraph 1 of this Article, the operator shall be obliged to submit to the subscriber a written information including detailed explanation of the reasons for such refusal, within eight days from the date of request.
- (4) The operators shall provide the subscribers, in a simple way and free of charge, with the possibility of barring of automatic call forwarding by a third party towards their terminal devices.

Billing of public electronic communications services

Article 159

- (1) The operator shall correctly record the data on provided service for the purpose of correct billing thereof.
- (2) The verification of correctness of recorded data shall be carried out in accordance with the law regulating the system of measurement and procedures for conformity assessment of measuring instruments with prescribed requirements.
- (3) For the purpose of measuring quantity of provided publicly available electronic communications services, the operator shall use the measuring units in accordance with the law regulating the system of measurement in Montenegro.
- (4) The operator shall include in its offer at least one package wherein the traffic data shall be used for billing purposes and shall use the time unit of one second for the billing of provided services (1s) and one kilobyte (1kB) for calculation of quantity of transferred binary data.
- (5) The provision of paragraph 4 of this Article shall not preclude the operator from offering the packages with different billing of traffic data.
- (6) The price of package referred to in paragraph 4 of this Article shall not differ from the package prices of other operators.
- (7) Provided service shall be calculated on one basis only and in accordance with the prices

from the published service pricelist.

Keeping the number
Article 160

- (1) The subscriber of publicly available telephone services shall have the right to keep his/her number when:
 - 1) changing the operator in accordance with Articles 139 and 141 of this Law;
 - 2) in geographical change of network terminal point within the same network group, if connection to the network is technically feasible;
 - 3) changing the service.
- (2) The right referred to in paragraph 1 of the Article hereof shall be granted upon the request of the subscriber.

Directory and information
Article 161

- (1) The subscribers of publicly available telephone services shall have the right to have their personal data entered in the operator's directory.
- (2) The operators shall establish, publish and update the directory of subscribers of publicly available telephone services, except for those subscribers who have expressly prohibited in writing the entry of their data into the directory.
- (3) Subscribers shall be provided with free of charge information on: volume and purpose of data entered into the directory prior to its publication, on possible use of their personal data, on minimum and maximum amount of data that can be entered in the directory, on the right to enter data according to their personal preference to the extent to which such data are compliant to the purpose of the directory, on the right to changes, updates or deletion of their personal data from the directory.
- (4) Legal entities may not request the prohibition of entry into the operator's directory of the data which serve for their identification.
- (5) The operators shall make the data contained in the directory easily available to all users through the publicly available inquiry service of the operator, via telephone call or SMS.

Bill for provided services
Article 162

- (1) The operator shall enable the users the insight into the recorded data on provided services and/or it shall issue, free of charge, the bill for provided services in accordance with Article 147 paragraph 3 item 3 of this Law.
- (2) The bill referred to in paragraph 1 of the Article hereof for publicly available telephone services on fixed location shall mandatory include the following data: accounting period, initial connection fee, subscription fee, type and amount of other lump sum payments in the accounting period relating to the provision of service for which the bill is issued, type and amount of other monthly lump sum payments and non-periodical instalments, number of

calls and their duration, number of accounting unit, unit price of accounting unit and amounts appearing separately for local calls, intercity calls, international calls, calls to mobile public networks, calls to numbers of value added services and data transfer calls; type and amount of other services rendered and the total amount of bill.

- (3) The provision of paragraph 2 of the Article hereof shall accordingly apply to other publicly available electronic communications services.
- (4) The bill referred to in paragraph 2 of the Article hereof shall not show the calls to toll-free telephone numbers, including the numbers of emergency services.
- (5) At the request of its subscriber, the operator shall issue an itemized bill (listing) at least once a month and free of charge.
- (6) Itemized bill (listing) referred to in paragraph 5 of the Article hereof shall particularly include: date and time of communication, source and destination of communication (called and calling number), duration of communication and quantity of transferred data.
- (7) The operator shall treat the data contained in the bill referred to in paragraphs 1 and 5 of the Article hereof in accordance with the laws regulating data confidentiality, protection of personal data and protection of undisclosed data.

Objection and complaint

Article 163

- (1) The user shall have the right to file a complaint to the operator regarding the access to and quality of services and regarding the bill for the provided services.
- (2) The user shall file to the operator the objection to the access to and quality of service immediately upon identifying any irregularity, and the objection to the bill shall be filed in writing, within eight days from the date of bill receipt.
- (3) The operator shall decide on the objection referred to in paragraph 2 of the Article hereof within eight days from the date of objection receipt and shall send to the user a written explained decision.
- (4) If the operator rejects the user's objection or fails to make a decision within the period referred to in paragraph 3 of the Article hereof, the user shall have the right to file a written complaint to the Agency, within 15 days from the date of expiry of the period referred to in paragraph 3 of the Article hereof.
- (5) The Agency shall decide on the complaint referred to in paragraph 4 of the Article hereof within 30 days from the date of complaint receipt.

Restriction of service to subscriber

Article 164

- (1) The operator may restrict the access to its services and/or disconnect a subscriber and terminate the subscriber agreement if a subscriber fails to settle its outstanding debts or breaches other conditions laid down in the Subscriber Agreement as well as in the event of harassment of other subscribers and abuse of calls to the emergency service numbers.

- (2) In identifying the violation of obligation arising from the Subscriber Agreement, the operator shall warn the subscriber thereof, in a reliable manner, and shall determine the adequate period for the elimination of irregularities and/or for the settlement of outstanding debts and specify the measures to be taken if, within the specified period, the subscriber fails to proceed according to the warning.
- (3) Upon the request of the Agency, the operator shall restrict the access to its services and/or disconnect the subscriber and terminate the agreement with the subscriber whose terminal equipment causes disturbances in the work of electronic communication networks, as well as the subscriber who organises games of chance on the Internet without the approval of the state administration body in charge of games of chance.
- (4) The operator shall not be obliged to previously inform the subscriber of the enforcement of measures referred to in paragraphs 2 and 3 of the Article hereof if the violation poses a serious threat for the safety and health of people or violates safety and integrity of the network.
- (5) Measures referred to in paragraph 4 of the Article hereof shall be defined in the general terms of service provision.

Unilateral termination of agreement

Article 165

- (1) If the user has filed an objection and/or complaint referred to in Article 163 of this Law, the operator may not take the measures referred to in Article 164 paragraph 1 of this Law until the decision of the Agency has been issued, provided that the subscriber has timely paid the indisputable part of the bill or the amount which corresponds to the average value of the last three monthly bills.
- (2) Until the decision of the Agency, the operator shall continue to provide services to the user and shall enable access to and use of emergency service numbers and toll-free number of user enquiry service.
- (3) If the subscriber fails to pay the indisputable part of the bill within the specified period or if the subscriber continues to act contrary to the provisions of the Subscriber Agreement or fails to act upon the decision of the Agency, the operator shall permanently disconnect such subscriber and/or shall cease to provide all services.
- (4) The Subscriber Agreement shall be considered terminated unilaterally from the moment of disconnection and/or cessation of service provision referred to in paragraph 3 of this Article.
- (5) Upon the cessation of service provision referred to in paragraph 4 of this Article, the operator shall only have the right to request from the subscriber to pay the outstandings incurred in the period until the termination of the Subscriber Agreement.

Temporary restriction and/or termination of services

Article 166

- (1) The operator may temporarily restrict and/or interrupt access to its services, without user's approval, when this is necessary for the purpose of eliminating defects, regular maintenance and development of network.

- (2) In the event referred to in paragraph 1 of this Article, the operator shall publish in the media the information on temporary restriction and/or interruption of access to services one day in advance and deliver such information to the Agency and emergency services if this affects their work.
- (3) In the event that the temporary restriction and/or interruption of access to services lasts more than six hours, the operator shall directly and appropriately inform the users thereof.
- (4) In the event of temporary restriction and/or interruption of access to services referred to in paragraph 1 of this Article, the operator shall reduce user's monthly subscription fee in proportion to the duration of temporary restriction and/or interruption of service.

Right to compensation

Article 167

- (1) The operator shall determine the amount and manner of compensation payable to the subscriber if its services deviate from the terms stipulated in the Subscriber Agreement with regard to their quality and availability.
- (2) The subscriber shall be entitled to request from the operator the compensation of direct or indirect loss occurring as a consequence of poor service quality or restriction of access to the network or service.
- (3) The operator shall not be obliged to compensate the subscriber if a poor service quality or restricted access to network occurred due to the circumstances beyond the operator's control.

XI PROTECTION OF ELECTRONIC COMMUNICATIONS

Safety and integrity of electronic communications networks and services

Article 168

- (1) The operator shall undertake appropriate technical and organisational measures for the purpose of providing integrity of its network and protection of its safety and/or continuous provision of its services and, together with other operators, it shall take necessary measures to protect the safety of electronic communications network and services.
- (2) The measures referred to in paragraph 1 of this Article shall be defined in accordance with the degree of hazard relating to the network safety by applying available technical and technological solutions and in accordance with the costs of such measures.
- (3) The measures referred to in paragraph 1 of this Article shall be particularly implemented for the purpose of preventing and diminishing the impact of safety incident on the service users and related electronic communications networks, and particularly for the purpose of ensuring safety of services and protection of users against malicious activities, electronic sabotages, frauds of third parties and abuse of any kind.
- (4) If the degree of hazard for the network safety exceeds the scope of protection measures referred to in paragraph 1 of this Article, the operator shall inform its users thereof as well as of the available measures to eliminate such hazard and/or its consequences, including the possible costs of such measures.

- (5) The measures referred to in paragraph 1 of this Article shall, in particular:
- 1) provide the access to personal data to the authorised persons only, for the purposes allowed by the law;
 - 2) protect transferred or stored personal data against accidental or unlawful destruction, loss or change and against unauthorised or unlawful storing, processing, access or disclosure;
 - 3) provide the implementation of safety policy in connection with personal data handling.
- (6) Personal data collected by the operator through the measures referred to in paragraph 1 of this Article shall be subject to the provisions of the law regulating data confidentiality, protection of personal data and protection of undisclosed data.

Implementation of measures

Article 169

- (1) The operator shall assign the person responsible for the implementation of measures referred to in Article 168 paragraph 1 of this Law.
- (2) The Agency and the body in charge of personal data protection may monitor the implementation of measures referred to in paragraph 1 of this Article and give guidelines for the achievement of an adequate level of safety.
- (3) The operator shall promptly and in writing inform the Agency of the breach of safety or loss of integrity which has a considerable impact on the operation of its networks and provision of its services.
- (4) In the event referred to in paragraph 3 of this Article, the Agency may inform the public or request the operator to inform the public of the breach of safety or loss of network integrity, if it finds that such information is in the public interest.
- (5) For the purpose of implementation of measures referred to in Article 168 paragraph 1 of this Law, the Agency may request the operators to:
 - 1) submit the data necessary for assessment of safety and integrity of their networks and services, including the documents on safety policy and
 - 2) inform the Agency of the measures for supervision of network and services safety determined by the body in charge of risk prevention and protection of information systems safety or any other administration body in charge of computer crime.
- (6) The manner and deadlines for implementation of measures referred to in Article 168, paragraphs 1 of this Law shall be prescribed by the Agency.

Notification and recording of violation of personal data in electronic communications

Article 170

- (1) The operator shall promptly inform the Agency and the body in charge of personal data protection of any personal data violation or violation of privacy of users.

- (2) The notification referred to in paragraph 1 of this Article shall particularly specify the description of consequences of such violation and the measures proposed or undertaken for elimination of causes thereof.
- (3) The operator shall promptly inform the user if the violation of personal data may have harmful effects on personal data or privacy of the user.
- (4) The notification from paragraph 3 of this article must include the nature of the personal data breach, with user instructions on how to contact the authorized operator who can provide more information, as well as suggest measures to mitigate the negative effect of the personal data breach.
- (5) The operator shall keep records on violation of personal data which shall contain the data on cause of personal data violation, consequences thereof and measures undertaken for the purposes of protection.
- (6) The data in the records referred to in paragraph 5 of this Article may be used only for the purposes of recording the violation of personal data.

Notification required by competent authority
Article 171

- (1) The operator shall not be obliged to inform the user of the unauthorised access to personal data referred to in Article 170 paragraph 1 of this Law if the Agency provides the opinion that the operator has adequately applied appropriate technical measures of protection which rendered such data incomprehensible to the person who made such unauthorised access so that the notification of user thereof is not necessary.
- (2) The Agency is obligated to consult the authority responsible for the protection of personal data, before providing an opinion from paragraph 1 of this article.
- (3) The Agency, in cooperation with competent authorities for personal data protection, monitors the implementation of the obligations of operators in relation to giving notice under Article 169, paragraph 3 of this Law and shall take appropriate measures in case of non-fulfillment of such obligations.
- (4) The Agency, in cooperation with competent authorities for the protection of personal data, in accordance with Article 169 paragraphs 3 and 4 of this Law, may further prescribe the cases in which the operator is required to provide notice of a violation of personal data, as well as the form, content and deadlines for providing information mentioned in Article 170 paragraph 1 of this Law.

Confidentiality of communications
Article 172

- (1) In accordance with this law, the confidentiality of communications shall relate to:
 - 1) content of communication;
 - 2) user data;
 - 3) traffic data and location data relating to communications;
 - 4) unsuccessful attempts to establish communication.

- (2) All forms of surveillance, taping, or storage of communications content and data and/or interruption and surveillance thereof by other persons, without consent from user of such communication, shall be prohibited.
- (3) Technical storage or access to communication content or data shall be permitted without consent of the user of such communication if the sole purpose is to transfer the data through the public communications network or when the operator provides such service at user's request.
- (4) Exceptionally, the actions referred to in paragraph 2 of this Article may be undertaken only if necessary, appropriate and proportional to protection measures of national security, defence and for the purpose of criminal offence prevention, investigation, uncovering and prosecution of offenders and unauthorised use of electronic communications system, as well as in the events of providing assistance in search and rescue of people when this is necessary for the protection of life and health of people and property, in accordance with the law.
- (5) Use of electronic communications networks to store or gain access to data and information stored in the terminal equipment of users shall be allowed on condition that the user has agreed thereto and upon being provided with information about the purpose of data collection and processing.
- (6) The user whose personal data are being processed can withdraw its consent mentioned in paragraph 5 of this Article at any time.

Period for storing data and recording communications

Article 173

- (1) Operators, their agents, representatives, and other persons employed with the operator shall be obliged to protect the confidentiality of communications, even after the termination of activities and/or employment in which they were obliged to protect such confidentiality.
- (2) Users may record communications, whereof they shall be obliged to inform the sender or recipient of the communication or adjust the operation of the recording devices so that the sender or recipient of the communication is informed of its operation.
- (3) Prohibition referred to in Article 172 paragraph 2 of this Law shall not be applicable to recording of communications and related data on traffic used for purposes of evidence of commercial transactions or other business communications, upon the user's explicit request or within emergency services receiving emergency calls for the purpose of recording and identification thereof.

Subscriber data

Article 174

- (1) Operator shall promptly register the subscribers of fixed-line telephony and users of all services of mobile telephony (both pre-paid and post paid) and the Internet.
- (2) The registration referred to in paragraph 1 of this Article shall imply recording of the following subscriber data: name and surname or name of the user company and its organisational form; identity or passport number for natural persons, and tax identification and registration numbers for legal persons; address of the subscriber: allocated subscriber

number and/or subscriber ID.

- (3) At the subscriber's request, the operator may keep records on the following data: academic, scientific or occupational title of the subscriber and other data, subject to payment, provided that this does not affect the interest of third parties.
- (4) The operator may use the subscriber data solely for the purposes of registration, preparation, conclusion, execution, amendment or termination of Subscriber Agreement, billing of services and for the needs of competent state bodies, in accordance with the Law.
- (5) The data referred to in paragraph 2 and 3 of this Article may be used for the purpose of establishing and keeping the subscriber directory and for other purposes only with the explicit approval of the subscriber whose data are processed, whereby the operator has a duty to correct or withdraw the subscriber's data at his/her request, at any time.
- (6) Operator shall be obliged to store the recorded data during the term of subscriber relations at least one year after the termination of service provision.
- (7) The manner of registering the users of public electronic communications networks services shall be prescribed by the Ministry.

Traffic data
Article 175

- (1) Traffic data relating to subscribers or users, which are processed and stored by the operator, shall be erased or changed so that they cannot be connected with a particular person (anonymous data) when they are no longer needed for the purpose of conveyance of communication and if there is no data retention obligation, referred to in Article 181 of this Law.
- (2) Traffic data necessary for the purposes of billing the subscribers or users of publicly available electronic communications services and interconnection payments may be processed only until the expiry of the statute of limitations on claims, provided that the users are informed of the purpose and deadlines for processing such data.
- (3) For the purpose of marketing and sale of electronic communications services or the provision of value added services, the operator may process the data to the extent and in the manner necessary for marketing and sale or provision of such services, provided that the subscriber or user to whom the data relate has given his/her consent.
- (4) User or subscriber may deny or withdraw their consent referred to in paragraph 3 of the Article hereof.
- (5) The processing of traffic data in accordance with paragraphs 2 and 3 of this Article shall be restricted to the persons employed and/or authorised by the operator who handles billing or traffic management, customer complaints, fraud detection, marketing and sale of electronic communications services or provides a value added service and must be restricted only to what is necessary for the purposes of such activities.
- (6) For the purposes of resolution of disputes, particularly disputes relating to interconnection and billing, the operator shall make available to the competent authorities the information of the traffic data referred to in paragraphs 1, 2, 3 and 4 of this Article, in accordance with

special regulations.

- (7) Operator shall inform the subscriber or user of the type of processed traffic data and of the duration of processing for the purposes referred to in paragraph 2 of this Article, and for the purposes referred to in paragraph 3 of this Article, prior to obtaining consent.

Number identification

Article 176

- (1) The operator offering the possibility of calling line identification shall offer the calling user the possibility of preventing the presentation of the calling line identification on a per-call basis or for all calls, in a simple manner and free of charge.
- (2) The operator offering the presentation of incoming call, shall enable the called subscriber a simple and free-of-charge possibility of prevention of presentation of the calling line identification of incoming calls, with reasonable use of this function.
- (3) The operator referred to in paragraph 1 of this Article where the calling line identification is presented prior to the call being established, shall offer the called subscriber a simple and free-of-charge possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling subscriber or user.
- (4) The operator offering the possibility of identification of the number to which the call was forwarded shall enable the called subscriber a simple and free-of-charge possibility of prevention to the calling user the presentation of the number to which the call was forwarded.
- (5) Provisions of paragraphs 1, 2 and 3 of this Article shall also apply to incoming and outgoing calls to other countries.
- (6) The operator offering the possibility of identification of calling line and/or of the number to which the call was forwarded shall inform the public about services and possibilities referred to in paragraphs 1,2,3, and 4 of this Article in an appropriate and publicly available manner.
- (7) The operator may restrict the possibility of preventing the presentation of calling line identification:
 - 1) temporarily, upon a request from a user requesting to trace malicious and nuisance calls, whereby the operator shall process, store and make available data on identification of the calling user, in accordance with a special law;
 - 2) upon a request from competent state bodies, including emergency services, for the purpose of processing location data and responding such calls, regardless of the lack of user's consent and
 - 3) upon a request from a state body, for purposes of processing and storing data on identification, in accordance with Articles 181 and 182 of this Law.

Location data

Article 177

- (1) Location data other than traffic data, may be processed by the operator when such data are

changed so that they cannot be connected with a particular person (anonymous data), or with the consent of the user, in the manner and for the duration necessary for the provision of a value added service.

- (2) The operator must inform the user, prior to obtaining his/her consent referred to in paragraph 1 of this Article, of the type of location data other than traffic data which will be processed, of the duration of processing and whether the data will be transmitted to a third party.
- (3) The operator shall give to users the possibility to withdraw their consent for the processing of data at any time.
- (4) Where consent of the user for processing of location data other than traffic data has been obtained, the user must continue to have the possibility, using a simple means and free of charge, to temporarily refuse the processing of such data for each connection to the communications network or for each transmission of content.
- (5) Processing of location data other than traffic data may be carried out only by the authorised persons of the operator or authorised persons of a third party providing the value added services, and must be restricted to the minimum extent necessary for the provision of value added services.
- (6) Exceptionally from paragraphs 1 to 5 of the Article hereof, the operator shall be obliged to store location data referred to in the Article 181 of this Law for the purposes of competent state bodies.

Unsolicited communications

Article 178

- (1) The use of automated voice systems, without human intervention (automated call machines), facsimile machines or electronic mail, including SMS or MMS for calls to users for the purpose of direct advertising may be allowed only with the prior consent of the subscriber.
- (2) A physical or legal person, regardless of the given consent from paragraph 1 of this Article, may use electronic mail contact data obtained from its customers for advertising and sale of products and services, provided that the customer is given the opportunity to, in a simple manner and free of charge, object thereto or refuse the use of its electronic contact data for such purposes, during their collection or on receiving any message, in the event that the user has not previously refused such use of data.
- (3) Sending of electronic mail for the purposes of advertising or encouraging the recipient to visit the websites where the identity of the sender is misrepresented or concealed or where there is no correct address to which the recipient may send the request to terminate such communication shall be prohibited.
- (4) Operator shall provide the users referred to in paragraph 3 of the Article hereof with the possibility to, in a fast and simple manner, filter the incoming electronic mail which contains unsolicited electronic messages or harmful content.

Unsolicited communications by abuse of electronic mail

Article 179

- (1) Operator shall, in an appropriate and publicly available manner, publish the electronic mail address which users may use to report abuse, and respond to any complaint concerning the abuse of electronic mail, within eight days from the date of receipt of complaint via electronic mail.
- (2) Operator shall bind its subscribers under the subscriber agreement not to send unsolicited electronic messages, including SMS or MMS in accordance with Article 178 of this Law and paragraph 1 and paragraphs 3 to 6 of this Article, and to take appropriate measures to prevent the abuse of electronic mail user account.
- (3) When the operator receives proof that an unsolicited electronic message has been sent or that the electronic mail user account has been abused, it shall establish the facts of the case and, depending on the degree of abuse, warn the subscriber or temporarily disable the use of electronic mail user account and inform the user thereof without delay and in writing.
- (4) If the subscriber repeats the violation of obligation referred to in paragraph 2 of this Article defined in the subscriber agreement, the operator shall have the right to permanently delete the subscriber's user account for electronic mail and terminate subscriber agreement in accordance with the provisions thereof and general terms for provision of services.
- (5) The provisions of paragraphs 2, 3 and 4 of this Article shall not apply to the subscriber when it is established that the abuse of corresponding electronic mail user account was caused by a third party, except in the event when the subscriber failed to comply with the warnings of the operator to take protection measures.
- (6) More detailed terms and manner for preventing and controlling abuse and frauds in the provision of electronic mail services, including SMS or MMS, as well as fulfilment of obligations of the operator and subscriber, shall be prescribed by the Agency in cooperation with the body in charge of personal data protection.

Interception of communications

Article 180

- (1) The operator shall be obliged to provide, at its own expense, appropriate technical and organisational conditions enabling interception of communications, in accordance with Article 172 paragraph 4 of this Law.
- (2) The operator shall enable conditions for interception of communication referred to in paragraph 1 of this Article upon the request of the state body, in accordance with the Law.
- (3) The operator, together with the competent state body upon whose request a lawful interception is conducted, shall be obliged to provide permanent records on this activity, and to protect collected information referred to in paragraph 2 of this Article as an official secret.
- (4) Necessary technical and organisational conditions referred to in paragraph 1 of this Article shall be prescribed by the Ministry, with the approval of state bodies in charge of internal affairs and safety.
- (5) The operator which performs technical and programmatic upgrade in its network or implementation of new electronic communications services which influence the lawful interception of communications shall be obliged to inform of such upgrade or implementation the bodies in charge of interception, at least six months prior to upgrade of its network

and/or implementation of new services.

Obligation of data retention
Article 181

- (1) Operator shall have the obligation to retain particular data on traffic and location, and relevant data required for identification and registration of subscribers, of both legal and natural persons, to the extent to which such data were generated or processed by them, for the purposes of defence and national security as well as crime prevention, investigation, detection and criminal prosecution of crime offenders, assistance in search and rescue of people, protection of human life and health and property, in accordance with the Law.
- (2) The obligation of data retention referred to in paragraph 1 of this Article, shall also be applied to data concerning unsuccessful call attempts if such data are generated and processed, in case of telephone services, or logged, in case of internet services, by the operator.
- (3) The obligation referred to in paragraph 1 of this Article, shall not apply to data revealing the content of electronic communications.
- (4) The operator shall provide in its network, at its own expense, necessary technical and organisational conditions which enable relevant state bodies to take over the retained data on traffic and location as well as the data necessary for identification and registration of subscribers.
- (5) The period for retaining data referred to in paragraph 1 of this Article shall not be shorter than six months or longer than two years from the date of communication.
- (6) Operator shall keep records and annual statistics of the data submitted to the competent body on the cases of delay in submission and on the requests for submission of data which could not be met, without stating personal data.
- (7) Necessary technical and organisational conditions referred to in paragraph 4 of this Article and the permitted delay from the receipt of the request to the transfer of retained data to the competent authority shall be prescribed by the state administration body in charge of internal affairs.

Categories of retained data
Article 182

- (1) The obligation of data retention referred to in Article 181 of this Law shall include the following types of data necessary for:
 - 1) tracing and identifying the source and destination of communication;
 - 2) identifying location of parties to communication;
 - 3) identifying date, time and duration of communication;
 - 4) identifying type of communication;
 - 5) identifying communication equipment of user or equipment used for the purpose of

communication;

- 6) identifying location of mobile communications equipment.
- (2) More detailed categories of data referred to in paragraph 1 of the Article hereof shall be defined in the regulation of the Government.

Safety of retained data
Article 183

- (1) Operator shall:
- 1) ensure that retained data are of the same quality and degree of safety and protection as the relevant data in the network;
 - 2) ensure by appropriate technical and organisational measures that retained data are protected against unlawful or accidental destruction, accidental loss or modifications, unauthorised or illegal storing, processing, accessing or revealing;
 - 3) ensure by appropriate technical and organisational measures that only the persons authorised by the operator have the access to retained data;
 - 4) destroy the retained data, other than data which were accessed and stored, after the expiry of the prescribed period for retention.
- (2) Supervision of enforcing measures referred to in paragraph 1 of this Article shall be performed by the body in charge of protection of personal data.

XII SUPERVISION

Supervision of implementation of this Law
Article 184

The supervision of implementation of this Law, other regulations and acts adopted hereunder, international treaties and conventions signed by Montenegro, shall be conducted by the Ministry and the Agency, within the scope of their competences defined by this Law.

Inspection and expert supervision
Article 185

- (1) The inspection in the area of electronic communications shall be carried out by the state administration body in charge of inspection, through the inspectors for electronic communications (hereinafter: „Inspector“).
- (2) Expert supervision in the area of electronic communications shall be carried out by the Agency, through the supervisor for electronic communications (hereinafter: „Supervisor“).
- (3) In performing inspection and/or expert supervision the Inspector and/or Supervisor shall prove their supervision authority by producing official identification.
- (4) In the activities of supervision, the bodies conducting inspection and expert supervision shall establish necessary coordination, communication and cooperation.

Inspection
Article 186

- (1) The activities of inspection referred to in Article 185 of this Law shall be carried out by the Inspector, in accordance with this Law and special acts regulating inspection and protection of consumers.
- (2) The form and content of official identification required for the activities of inspection shall be prescribed by the state administration body in charge of public administration.

Competencies and authorities of inspector
Article 187

In addition to authorities determined by the special law regulating the area of inspection, the inspector shall be authorised to:

- 1) temporarily prohibit the provision of publicly available electronic communications services, if these are provided without due registration and approval of the Agency, and specify measures for preventing further unlawful performance of activities;
- 2) prohibit operation of a radio station which uses radio frequencies with no due approval and if necessary, specify measures to prevent its operation – by means of sealing or temporary confiscation of equipment or parts thereof, for which a certificate on confiscation shall be issued in writing;
- 3) prohibit construction works on electronic communications network, electronic communications infrastructure and associated facilities which are executed in accordance with this Law and regulations adopted hereunder;
- 4) prohibit works the execution of which has resulted or may result in the damage to or interference with the operation of electronic communications network, electronic communications infrastructure and associated facilities;
- 5) restrict or prohibit the operation of electrical device which contrary to regulations causes electromagnetic interference and disturbs the operation of electronic communications networks or equipment;
- 6) prohibit and prevent, in cooperation with market inspection and competent body in charge of internal affairs, the sale and use of electronic communications equipment or terminal equipment and other devices and equipment which in its operation uses radio frequencies and which is produced or imported to the home market, if such equipment does not satisfy technical, usage and other legally prescribed requirements;
- 7) control the alignment of electronic communications system operations in emergency situations, with the regulation of the Government referred to in Article 61 paragraph 6 and Article 62 paragraph 2 of this Law.

Expert supervision
Article 188

- (1) The Supervisor shall perform the activities of expert supervision under the authorisations

arising from this Law and regulations adopted hereunder.

- (2) The Agency shall prescribe the form and content of official identifications for performance of expert supervision activities..

Responsibilities and authorisations of the Supervisor

Article 189

- (1) In the procedure of expert supervision, the Supervisor shall:
 - 1) control the activities of electronic communications in accordance with this Law and regulations adopted hereunder.
 - 1a) control the performance of duties by the operators in case of emergencies;
 - 2) control the fulfilment of conditions for use of radio-frequencies, numbers and addresses under issued approvals;
 - 3) control the conformity of operation parameters of electronic communications network elements with prescribed norms and standards;
 - 4) determine the origin and location and identify of illegal radio emissions and sources of harmful interferences;
 - 5) in providing Universal Service, determine the conformity with specified norms for quality of service and declared parameters of quality of other types of services;
 - 6) determine the safety of networks and services of electronic communications, and compliance with provisions of the Law, concerning confidentiality of communications;
 - 7) control regularity of application of approved and/or publicly disclosed prices of electronic communications services;
 - 8) control applied measures of protection of electronic communications network, electronic communications infrastructure and associated facilities;
 - 9) control if works on construction of electronic communications network, electronic communications infrastructure and associated facilities are executed in accordance with this Law and regulations adopted hereunder;
 - 10) control technical and other documents (records on system status, licences, approvals, attestations and the like).
- (2) The Supervisor shall carry out his/her authorisations and responsibilities based on the data collected in the control and monitoring of radio-frequency spectrum or based on the data collected in accordance with paragraph 4 of this Article.
- (3) The Supervisor of electronic communications shall:
 - 1) undertake appropriate measures, and request the operator to eliminate deficiencies within a reasonable deadline, if this Law, or the regulations adopted hereunder and acts adopted by the Agency and regulations and standards effective in Montenegro are not applied in the course of exploitation of electronic communications networks or provision

of electronic communications services;

- 2) request the user of radio-frequencies to eliminate deficiencies in operation of a radio station that is not functioning in accordance with the Law, or temporarily ban its functioning if it interferes with the operation of other electronic communications equipment;
 - 3) in cases of severe violations of the Law, when it is established that an entity is performing activities without due registration or approval from the Agency, inform the inspector for electronic communications thereof as soon as possible.
- (4) In addition to the Supervisor, the Agency may authorise other persons to perform an on-site control of the subjects of supervision and take the data necessary for conduct of activities within the competences of Agency.
- (5) The Supervisor and persons referred to in paragraph 4 of this Article shall keep the confidentiality of all information relating to the work of the operator which become known to them in their work, in accordance with this Law and the law regulating the matters of data confidentiality and protection.
- (6) The law regulating the area of inspection shall apply accordingly to the expert supervision procedure. .

Legal remedies

Article 190

- (1) Complaint against decisions issued in the procedure of inspection supervision may be filed to the Ministry within eight days from the date when the decision was presented to the subject of supervision. The complaint against the decision shall not have a suspensory effect.
- (2) Complaint against a decision issued in the procedure of expert supervision may be filed to the Agency Council, within eight days from the date when the decision was presented to the subject of supervision. The complaint against the decision shall not have a suspensory effect.
- (3) Administrative procedure may be initiated against decisions upon complaints referred to in paragraphs 1 and 2 of this Article before a competent court, within 30 days from the date of the decision.

Mutual cooperation

Article 191

- (1) In performing the activities of inspection and expert supervision, the Inspector and Supervisor shall mutually cooperate.
- (2) In performing the activities of inspection the Inspector shall cooperate with judicial, legal and other competent authorities.
- (3) In performing the activities of inspection the Inspector shall inform the Agency of the identified irregularities and the Agency shall take the measures within its competences.

- (4) In performing the activities of expert supervision, the Supervisor shall inform the Inspector of the identified irregularities, and the Inspector shall take the measures within his/her competences.

XIII PENAL PROVISIONS

Article 192

- (1) For an offence, a legal entity shall be fined with 1% to 10% of the total annual revenue for the accounting year preceding the year in which the offence was committed, if it:
- 1) fails to develop the emergency plan ensuring the integrity of public electronic communications network and use of electronic communications services in the events of major network failures, state of war and emergency, natural disasters and other emergency situations (Article 61 paragraph 1);
 - 2) fails to apply the plan of measures referred to in Article 61 paragraph 1 of this Law for the duration of circumstances for which they were taken. (Article 61 paragraph 2);
 - 3) fails to submit a plan of measures referred to in Article 61 paragraph 1 of this Law for review to the Ministry, the Agency, authorities responsible for defence and security, protection and rescuing, and the administrative authority responsible for inspection affairs, within three days from the date of its adoption (Article 61 paragraph 3);
 - 4) fails to adjust the use of its electronic and communications networks and facilities to such situation or make them available or give them for use to the competent authorities for the period of emergency situations (Article 61 paragraph 4);
 - 5) fails to adjust its network in emergency situations so as to give priority to communications from certain network terminal points (Article 62 paragraph 1);
 - 6) fails to comply with the decision of the Agency on obligation to separate the activities related to wholesale provision of access service in an independently operating business unit (Article 79 paragraph 1);
 - 7) its independently operating business unit referred to in Article 79 paragraph 1 of this Law fails to provide access products and services to all operators by same systems and procedures and within equal deadlines and terms (Article 79 paragraph 2);
 - 8) fails to inform the Agency, in the capacity of vertically integrated operator with significant market power on one or more relevant markets, 90 days in advance, of its intention and final outcome of the voluntary separation procedure (Article 80 paragraph 2);
 - 9) fails to enable users of publicly available telephone services, including public pay telephones, to call emergency call numbers free of charge (Article 143 paragraph 1);
 - 10) fails to correctly record the data on provided service (Article 159 paragraph 1);
 - 11) fails to use the measuring units in accordance with the law regulating the system of measurement in Montenegro for measuring the volume of provided publicly available electronic communications services (Article 159 paragraph 3);

- 12) fails to include in its offer at least one package wherein the traffic data shall be used for billing purposes and to use the time unit of one second for the billing of provided services (1s) and one kilobyte (1kB) for calculation of quantity of transferred binary data. (Article 159 paragraph 4);
 - 13) the price of package referred to in Article 159 paragraph 4 of this Law differs from package prices of other operators (Article 159 paragraph 6)
 - 14) uses electronic communications network to store or gain access to data and information stored in the terminal equipment of user without its approval (Article 172 paragraph 5);
 - 15) fails to protect the confidentiality of communications, even after the termination of activities and/or employment in which s/he was obliged to protect such confidentiality (Article 173 paragraph 1).
 - 16) fails to provide, at its own expense, appropriate technical and organisational conditions enabling interception of communications in accordance with Article 172 paragraph 4 of this Law and inform the Agency thereof and to submit evidence that such conditions have been provided (Article 180 paragraph 1);
 - 17) fails to retain data on traffic and location, and relevant data required for identification and registration of subscribers, of both legal and natural persons, to the extent to which such data were generated or processed by them, for the purposes of defence and national or public security as well as crime prevention, investigation, detection and criminal prosecution of crime offenders and assistance in search and rescue of people, protection of human life and health and property (Article 181 paragraph 1);
 - 18) fails to provide necessary technical and organisational conditions which enable relevant state bodies to take over the retained data on traffic and location as well as the data necessary for identification and registration of subscribers (Article 181 paragraph 4);
 - 19) fails to ensure that retained data are of the same quality and degree of safety and protection as the relevant data in the network (Article 183 paragraph 1 item 1);
 - 20) fails to ensure by appropriate technical and organisational measures that retained data are protected against unlawful or accidental destruction, accidental loss or modifications, unauthorised or illegal storing, processing, accessing or revealing (Article 183 paragraph 1 item 2);
 - 21) fails to ensure by appropriate technical and organisational measures that access to retained data may have only the persons authorised by the operator (Article 183 paragraph 1 item 3).
- (2) For the offence referred to in paragraph 1 of this Article, the responsible person within a legal entity shall be fined in the amount between EUR 600 and EUR 6.000.
 - (3) For the offence referred to in paragraph 1 of this Article an entrepreneur shall be fined in the percent ranging from 1% to 10% of the total annual revenue, for the accounting year preceding the year in which the offence was committed.

- (4) For the offence referred to in paragraph 1 of this Article natural person shall be fined in the amount between EUR 200 to EUR 2.000.
- (5) If the offence referred to in paragraph 1 of this Article resulted in material gain, in addition to the fine, the measure of confiscation of such material gain shall be imposed.
- (6) The offence referred to in paragraph 1 of this Article may result in the imposition of a safeguard measure on a legal entity, entrepreneur and/or responsible person within a legal entity, consisting of the prohibition of performance of activities for a period of up to six months.

Article 193

- (1) For an offence, a legal entity shall be fined in the amount between EUR 8.000 and EUR 40.000, if it:
 - 1) fails to submit to the Agency all available information, including financial information and information relating to the development of network or services which may affect its wholesale services (Article 30 paragraph 1);
 - 2) fails to submit to the Agency accounting information of retail markets related to the wholesale markets (Article 30 paragraph 2);
 - 3) in constructing and using electronic communications networks, electronic communications infrastructure and associated facilities and when providing electronic communications services, fails to enable, within technical possibilities, full supervision and regulatory control by the supervisory bodies (Article 39 paragraph 1);
 - 4) in the vicinity of electronic communications networks, electronic communications infrastructure and associated facilities works are executed, new buildings are planned, seedlings are planted or other actions are taken which may damage or interfere with the operation thereof (Article 42 paragraph 1);
 - 5) interferes with propagation of electromagnetic waves and causes interference with radio communications due to execution of works, construction of new buildings, installation of technical equipment or other activities in the protective zone or radio-corridor of radio station (Article 42 paragraph 2);
 - 6) fails to submit a written application to the Agency prior to the inception of use, and/or prior to the termination or change in the regime of use of public communications networks or prior to the provision of publicly available electronic communications services (Article 46 paragraph 1);
 - 7) uses radio frequencies without the approval for use of radio frequencies, issued by the Agency (Article 99 paragraph 1);
 - 8) uses the numbers and/or addresses from the Numbering Plan and Addressing Plan without the approval for use of numbers and/or addresses issued by the Agency (Article 130 paragraph 1);

- 9) fails to make possible free-of-charge calls to the single European emergency call number "112" (Article 142 paragraph 1);
 - 10) fails to publish the pricelist of services on its website and make it available to the users in its offices (Article 150 paragraph 1);
 - 11) fails to offer subscriber agreements for the maximum term of one year (Article 152 paragraph 2);
 - 12) connects to the public electronic communications network radio or telecommunications terminal equipment which does not meet the requirements referred to in Article 126 of this Law (Article 154 paragraph 2);
 - 12a) fails to provide public electronic communication services of prescribed quality established by the subscriber agreement and the enactment of the Agency referred to in Article 155 paragraph 3 (Article 155 paragraph 1);
 - 12b) fails to calculate the services provided solely on one basis in accordance with the prices from the published pricelist (Article 159 paragraph 7);
 - 13) upon the order of the Agency, fails to restrict access to its services and/or disconnect the subscriber and terminate the agreement with the subscriber whose terminal equipment causes disturbance in the work of electronic communication networks, as well as with the subscriber who organises games of chance on the Internet without the approval of the state administration authority responsible for games of chance (Article 164 paragraph 3);;
 - 14) fails to undertake appropriate technical and organisational measures for the purpose of providing integrity of its network and protection of its safety and/or continuous provision of its services and protection of safety of electronic communications network and services (Article 168 paragraph 1);
 - 15) fails to appoint a person responsible for implementation of the measures referred to in Article 168 paragraph 1 (Article 169 paragraph 1).
- (2) For the offence referred to in paragraph 1 of this Article, the responsible person within a legal entity shall also be fined in the amount between EUR 400 to EUR 4.000.
 - (3) For the offence referred to in paragraph 1 of this Article an entrepreneur shall be fined in the amount between EUR 1.000 to EUR 12.000.
 - (4) For the offence referred to in paragraph 1 of this Article natural person shall be fined in the amount between EUR 150 to EUR 1.500.
 - (5) If the offence referred to in paragraph 1 of this Article resulted in material gain, in addition to the fine, the measure of confiscation of such material gain shall be imposed.
 - (6) The offence referred to in paragraph 1 of this Article may result in the imposition of a safeguard measure on a legal entity, entrepreneur and/or responsible person within a legal entity, consisting of the prohibition of performance of activities for a period of up to six

months.

Article 194

- (1) A legal entity shall be fined in the amount between EUR 6.000 to EUR 30.000 for an offence if it:
- 1) plans, designs, produces, places or installs electronic communications network, electronic communications infrastructure and associated facilities in the manner which does not ensure access to or availability of publicly available electronic communications services to persons with reduced mobility and the persons with disabilities (Article 39 paragraph 2 item 1 and 2);
 - 1a) 15 days before the start of construction, fails to submit to the Agency a written notice of the beginning of construction, construction site and technical features of the planned network, infrastructure and associated facilities or their constitutive parts (Article 39 paragraph 4);
 - 2) fails to submit to the Agency a written notice of the beginning of use or technical characteristics of electronic communications network, within seven days from the date of use (Article 39 paragraph 5);
 - 3) fails to submit the data on existing and planned electronic communications networks, electronic communications infrastructure and associated facilities included in the scope of the planning document (Article 40 paragraph 2);
 - 4) in constructing residential and office buildings intended for sale and shared use, fails to construct electronic communications networks, electronic communications infrastructure and associated facilities in accordance with the design documents (Article 41 paragraph 1);
 - 5) the developer referred to in Article 41 paragraph 1 this Law fails to provide adequate connections to the public electronic communications networks, suitable to the purpose of the building (Article 41 paragraph 3);
 - 6) fails to enable the access to all operators, under equal and non-discriminatory conditions, for the purpose of installation, maintenance or development of electronic communications networks, electronic communications infrastructure and associated facilities. (Article 41 paragraph 5);
 - 7) for the purpose of execution of works, fails to design the project for protection and/or relocation of electronic communications network or electronic communications infrastructure and associated facilities, in accordance with the planning document, and obtain the owner's approval thereof (Article 43 paragraph 1 item 1);
 - 8) at least 30 days before the deadline for the commencement of works, does not notify the owner of the electronic communications network or electronic communications infrastructure or associated facilities and does not provide him access for supervision of works (Article 43 paragraph 1 item 2);
 - 9) for the purpose of execution of works, fails to ensure protection and/or relocation of electronic communications network or electronic communications infrastructure and

associated facilities at its own expense (Article 43 paragraph 1 item 3);

- 10) 30 days prior to the development of the design referred to in Article 44 paragraph 1 of this Law, fails to submit to the Agency the notification of the planned traffic route (Article 44 paragraph 2);
- 11) at the request of the operator, fails to provide, under equal conditions, the use of available capacities for electronic communications networks, electronic communications infrastructure and associated facilities (Article 44 paragraph 4);
- 12) fails to inform the Agency of the change of information referred to in Article 46 paragraph 4 items 1 and 2 and paragraph 4 of this Law within 15 days from the date of change and/or of the change of data referred to in Article 46 paragraph 3 items 3 and 4 of this Law, minimum 15 days prior to the anticipated date of change (Article 46);
- 13) fails to establish a separate legal entity for carrying out the activities of public electronic communications or fails to keep separate accounting for business activities related to the area of electronic communications (Article 48 paragraph 2);
- 14) fails to notify the Agency of the revenue for the calendar year generated in the previous year from the provision of publicly available telecommunications services, electronic communications network given for use and/or electronic communications infrastructure and associated facilities, not later than until the end of the third month of the current year (Article 52 paragraph 1);
- 15) fails to publish on its website the data relevant for the shared use of available capacities of electronic communications infrastructure and associated facilities (Article 53 paragraph 2);
- 16) fails to reply to the request of another operator for the shared use of electronic communications infrastructure and associated facilities, within 15 days from the date of receipt of the request (Article 53 paragraph 3);
- 17) fails to quarterly submit to the Agency the records on the type, availability and geographic location of the electronic communications infrastructure and associated facilities which may be of interest for the shared use (Article 55 paragraphs 1 and 2);
- 18) fails to publish on its website the data which are relevant for negotiations about the access and interconnection (Article 56 paragraph 2);
- 19) fails to submit to the Agency the copy of the contract on access and/or interconnection for the purpose of recording and assessing the compliance with this Law (Article 57 paragraph 1);
- 20) fails to protect the confidentiality of all data exchanged in the course of negotiations or enforcement of the contract on access and/or interconnection and uses them otherwise or give them to any third party or persons related to the contracting parties or the third party (Article 57 paragraph 2);
- 21) when receiving and transmitting the service and programmes referred to in Article 59 paragraph 1 of this Law, fails to keep the wide-screen format if intended for reception on wide television screen (Article 59 paragraph 2);

- 22) fails to ensure to the broadcasters whose programmes it transmits the access to application programme interfaces and/or electronic programme guides under fair, transparent and non-discriminatory conditions (Article 59 paragraph 4);
- 23) systems for conditional access to digital television and radio services do not have technical conditions enabling operators to have complete control over services protected with such systems (Article 60 paragraph 1);
- 24) does not offer, for all the broadcasters whose programmes are broadcast, objective, transparent and under equal conditions appropriate technical possibilities which provide end-users access to their programmes, using the appropriate conditional access device (Article 60 paragraph 2);
- 25) uses conditional access systems which prevent the access of end users to free programmes (Article 60 paragraph 3);
- 26) fails to keep separate accounting for conditional access services (Article 60 paragraph 4);
- 27) the Universal Directory and/or the database of Universal Enquiry Service do not include the prescribed subscriber information: name and surname and/or the name of a company and its organisational form, address and/or seat of subscriber and allocated subscriber number) and/or if they include the information of subscribers of publicly available telephone services who requested the prohibition of such data entry and publishing (Article 84 paragraph 1);
- 28) fails to inform the Agency, 60 days in advance, of its intent to unbundle its access network (Article 88 paragraph 1);
- 29) fails to determine equal prices of Universal Services for all users on the territory of Montenegro (Article 89 paragraph 1);
- 30) fails to offer price options or packages for socially vulnerable persons and persons with disabilities (Article 89 paragraph 2);
- 31) at the request of the Agency, fails to offer special prices or packages for socially vulnerable users and persons with disabilities under more favourable terms (Article 89 paragraph 4);
- 32) fails to quarterly submit to the Agency the information on measured service quality parameters and of the change in Universal Service quality, within 30 days from the date when the service quality changed, and publish on its website the updated information on quality of those services at least once a year (Article 91 paragraph 2);
- 33) transfers and/or assigns the right to use radio-frequencies to the other legal or natural person without the approval of the Agency (Article 118 paragraph 1);
- 34) fails to use allocated numbers and/or addresses within one year from the date of approval for their use (Article 133 paragraph 1 item 3);
- 35) fails to keep records on numbers and/or addresses used or given for use and to submit the records to the Agency, upon request (Article 133 paragraph 1 item 4);

- 36) fails to provide information of subscriber telephone numbers (Article 133 paragraph 1 item 5);
- 37) fails to meet the demands for number portability (Article 133 paragraph 1 item 7);
- 38) transfers or assigns the right to use numbers and/or addresses to other legal or natural person without the approval of the Agency (Article 134 paragraph 1);
- 39) fails to maintain and adjust its networks so as to enable number portability (Article 139 paragraph 3);
- 40) fails to deliver to the Operational Communication Centre, promptly and free-of-charge, all available data on calls made to "112" number and other emergency service numbers (Article 142 paragraph 2);
- 41) fails to enable the emergency services, free of charge, incoming call identification and call location, as soon as the call reaches the emergency service (Article 143 paragraph 2);
- 42) fails to enable the persons with reduced mobility and persons with disabilities a free access to emergency service numbers and to Single European Number "112" (Article 143 paragraph 6);
- 43) at the request of the Agency, fails to block the access to particular numbers and services when this is justifiable, in the events of fraud or abuse (Article 145 paragraph 4);
- 44) fails to provide the access to public electronic communications network, within eight days from the date of application, provided that this is technically feasible (Article 147 paragraph 3 item 1);
- 45) fails to provide the unobstructed use of publicly available electronic communications services of declared quality, availability and safety, at publicly available prices (Article 147 paragraph 1 item 2);
- 46) fails to provide itemized bill which enables a clear overview of items and verification of the calculated amount of the provided service or on user request a non-itemised bill (Article 147 paragraph 3 item 3);
- 47) fails to provide electronic communications services under the defined terms and at the defined prices (Article 148 paragraph 1);
- 48) fails to publish the information of prices, billing and general terms for provision of electronic communications services (Article 148 paragraph 2);
- 49) fails to define clear and unambiguous general terms for provision of its services stipulated in Article 148 paragraph 4 items 1,2,3,4,5,6,7,8, 9 and 10 of this Law (Article 148 paragraph 4);
- 50) acts contrary to the provisions on service rendering stipulated in Article 148 paragraph 5 items 1,2,3,4,5,6,7 and 8 of this law (Article 148 paragraph 5);
- 51) subscriber agreement does not contain the elements stipulated in Article 151 paragraph 2 items 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16 and 17 of this Law (Article 151 paragraph 2);

- 52) offers subscriber agreements for the term longer than two years (Article 152 paragraph 1);
- 53) fails to at least 30 days prior to the possible change in terms defined in the subscriber agreement, inform its subscriber of such change in writing and in a clear, visible and unambiguous manner, as well as via SMS service, when possible (Article 152 paragraph 5);
- 54) fails to obtain the approval of the Agency for standard subscriber agreement for each of the offered electronic communications services, prior to the provision thereof (Article 153 paragraph 3);
- 54a) conclude a subscriber agreement not approved by the Agency (Article 153 paragraph 4);
- 55) fails to enable the user to check the international mobile equipment Identity (IMEI number) in the event of unauthorised disposal or misuse of terminal equipment (Article 153 paragraph 7);
- 56) fails to submit to the Agency the information of provided service quality within the defined deadlines and publish them on its website (Article 155 paragraph 5);
- 57) fails to enable the users to block the access to numbers and Internet addresses through which adult content is accessed (Article 156 paragraph 4);
- 58) fails to enable users the insight into the registered data on provided services and/or to issue, free of charge, the bill for provided services in accordance with Article 147 paragraph 3 item 3 of this Law (Article 162 paragraph 1);
- 59) fails to inform its users of the safety hazard, if the degree of hazard for the network safety exceeds the scope of protection measures referred to in Article 168 paragraph 1 of this Law as well as of the available measures to eliminate such hazard and/or its consequences (Article 168 paragraph 4);
- 60) fails to promptly and in writing inform the Agency of the breach of safety or loss of integrity which has a considerable impact on the operation of its networks and provision of its services (Article 169 paragraph 3);
- 61) fails to promptly inform the Agency and the body in charge of personal data protection of any personal data violation or violation of privacy of users (Article 170 paragraph 1);
- 62) fails to promptly inform the user of the violation of personal data which may have harmful effects on personal data or privacy of the user (Article 170 paragraph 3);
- 63) fails to promptly register the subscribers of fixed-line telephony and users of all services of mobile telephony and the Internet (Article 174 paragraph 1);
- 64) uses the subscriber data for other purposes without the approval of the subscriber (Article 174 paragraph 4);
- 65) fails to store the data on subscribers during the term of subscriber relationship at least one year after the termination of service provision (Article 174 paragraph 6);
- 66) fails to provide permanent records on interception of communications, and to protect

collected information as an official secret (Article 180 paragraph 3);

- 67) fails to inform of its network upgrade or implementation of new services the bodies in charge of lawful interception of communications, at least six months prior to upgrade of its network and/or implementation of new services (Article 180 paragraph 5).
- (2) For the offence referred to in paragraph 1 of this Article, the responsible person within a legal entity shall be fined in the amount between EUR 300 to EUR 3.000.
- (3) For the offence referred to in paragraph 1 of this Article, entrepreneur shall be fined in the amount between EUR 800 to EUR 8.000.
- (4) For the offence referred to in paragraph 1 of this Article natural person shall be fined in the amount between EUR150 to EUR 1.500.
- (5) If the offence referred to in paragraph 1 of this Article resulted in material gain, in addition to the fine, the measure of confiscation of such material gain shall be imposed.

Article 195

- (1) For an offence, a legal entity shall be fined in the amount between EUR 4.000 to EUR 20.000, if it:
 - 1) fails to submit the information referred to in Article 84 paragraph 1 of this Law to the Universal Service operator which provides the service of Universal Directory (Article 84 paragraph 2);
 - 2) fails to regularly, and at least once a year, maintain the information in the Universal Directory (Article 83 paragraph 3);
 - 3) charges the publishing of subscriber information (Article 85 paragraph 1);
 - 4) fails to provide the information on telephone numbers of all subscribers who did not request the prohibition to publish such information (Article 85 paragraph 2);
 - 5) fails to update the information provided by the Universal Enquiry Service within the prescribed period (Article 85 paragraph 4);
 - 6) fails to handle the information obtained from the different operators of publicly available telephone networks on equal terms (Article 85 paragraph 6);
 - 7) (deleted)
 - 8) fails to provide to the user the technical capacities and/or special tariff regimes for the categories of socially vulnerable persons and persons with disabilities, which enable price and service spending control (Article 90 paragraph 1);
 - 9) fails to enable the users to generate calls to the numbers within the „116“ number range (Article 144 paragraph 4);

- 10) fails to enable the use of international access code „00“ when making international calls (Article 145 paragraph 1);
- 11) fails to enable the users to access the numbers used in the European Union (Article 145 paragraph 2);
- 12) fails to equally treat all calls to and from the numbers from the European Telephony Numbering Space (ETNS), at the prices which are comparable to the prices applied to the calls to the European Union member countries (Article 145 paragraph 3);
- 13) fails to submit the terms referred to in Article 148 paragraph 4 of this Law to the Agency for approval, 30 prior to the application thereof (Article 149 paragraph 1);
- 14) fails to publish the general terms for provision of services on its website and in at least two print daily media distributed on the territory of Montenegro, and to make them available, free of charge, at the request of a user, in printed form, in all its offices or otherwise as appropriate (Article 149 paragraph 4);
- 15) pricelist of services does not contain the prices of individual services, service packages, additional services, access fees and method of service calculation (Article 150 paragraph 2);
- 16) prices referred to in Article 150 paragraph 2 do not include VAT (Article 150 paragraph 3);
- 17) fails to submit the pricelist of services to the Agency not later than eight days prior to its publishing on its website (Article 150 paragraph 4);
- 18) fails to ensure to users who are the persons with reduced mobility and the persons with disabilities equal access to its services and to the emergency service numbers (Article 154 paragraph 4 item 1);
- 19) fails to ensure to users who are the persons with reduced mobility and the persons with disabilities the availability of terminal equipment (Article 154 paragraph 4 item 2);
- 20) fails to regularly inform the persons with reduced mobility and the persons with disabilities of all characteristics of services which are intended to this user group (Article 154 paragraph 4 item 3);
- 21) fails to ensure the priority in access to the network and in elimination of failures for the users who are the persons with reduced mobility and the persons with disabilities (Article 154 paragraph 4 item 4);
- 22) fails to ensure that persons with reduced mobility and persons with disabilities have equal access to electronic communications services and benefits of operator selection in accordance with the terms prescribed by the competent bodies (Article 154 paragraph 5);
- 23) upon the request of the Agency, fails to enable the subscribers to pay for the access to public electronic communications network and use of publicly available telephone services on a pre-paid basis (Article 156 paragraph 6);
- 24) fails to establish, publish and update the directory of its subscribers or enter into the

directory the information of subscribers who have prohibited in writing the entry of their data (Article 161 paragraph 2);

- 25) fails to issue the bill for publicly available telephone services on fixed location which contains all stipulated data (Article 162 paragraph 2);
- 26) fails to provide the protection of right to privacy in the itemized bill and listing (Article 162 paragraph 7);
- 27) prior to the decision of the Agency, stops the provision of services to the user who has paid, within the specified period, the indisputable part of the bill or the amount which corresponds to the average value of the last three monthly bills (Article 165 paragraph 1);
- 28) until the decision of the Agency, fails to continue to provide services to the user and enable access to and use of emergency service numbers and toll-free number of user enquiry service (Article 165 paragraph 2);
- 29) requests from the subscriber to pay the subscription fee or any outstandings, except for those incurred during the term of the Subscriber Agreement (Article 165 paragraph 5);
- 30) fails to publish in the media the information on temporary restriction and/or interruption of access to services referred to in Article 166 paragraph 1 of this Law one day in advance and deliver such information to the Agency and emergency services (Article 166 paragraph 2);
- 31) fails to directly inform the users in the event of service access restriction longer than six hours (Article 166 paragraph 3);
- 32) fails to determine the amount and manner of compensation payable to the subscriber if its services deviate from the terms stipulated in the Subscriber Agreement with regard to their quality and availability (Article 167 paragraph 1);
- 33) fails to erase or change the data on traffic related to subscribers or users so that they cannot be connected with a particular person (Article 175 paragraph 1);
- 34) processes the data on traffic which serve for the billing of subscribers or users of publicly available electronic communications services even until the expiry of the statute of limitations on claims (Article 175 paragraph 2);
- 35) process the data on traffic for marketing or provision of value added services, without the consent of the subscriber or user (Article 175 paragraph 3);
- 36) fails to restrict the processing of traffic data in accordance with Article 175 paragraphs 2 and 3 of this Law to the persons employed and/or authorised by the operator who handles billing or traffic management, customer complaints, fraud detection, marketing and sale of public electronic communications services or provides a value added services (Article 175 paragraph 5);
- 37) fails to inform the subscriber or user of the type of processed traffic data and of the duration of processing for the purposes referred to in Article 175 paragraph 2 of this Law, and for the purposes referred to in Article 175 paragraph 3 of this Law, prior to obtaining consent

(Article 175 paragraph 7);

- 38) processes the location data in the manner in which they can be connected with a particular person (anonymous data), or without the consent of the user (Article 177 paragraph 1);
 - 39) fails to inform the user of the type of location data which will be processed, of the duration of processing and whether the data will be transmitted to a third party (Article 177 paragraph 2);
 - 40) fails to give the possibility to users to withdraw their consent for the processing of data at any time (Article 177 paragraph 3)
 - 41) processing of location data other than traffic data is carried out by the unauthorised persons (Article 177 paragraph 5);
 - 42) allows the use of automated voice systems, without human intervention (automated call machines), facsimile machines or electronic mail, as well as SMS and MMS for calls to users without the prior consent of the user (Article 178 paragraph 1);
 - 42a) fails to provide the buyer with a simple and free of charge opportunity to give objections or refuse the use of his electronic contact details (Article 178 paragraph 2);
 - 42b) allows email sending for the purpose of advertising or encouraging the recipient to visit Internet sites misrepresenting or concealing the identity of the recipient or without a precise address to which the recipient may send request to have such communication discontinued. (Article 178 paragraph 3);
 - 43) fails to provide the possibility to filter the incoming electronic mail which contains unsolicited electronic messages or harmful content in a fast and simple manner to the users referred to in Article 178 paragraph 3 of this Law (Article 178 paragraph 4);
 - 44) fails to publish, in an appropriate and publicly available manner, the electronic mail address which users may use to report abuse, and respond to any complaint concerning the abuse of electronic mail, within eight days from the date of receipt of complaint via electronic mail (Article 179 paragraph 1);
 - 45) fails to bind its subscribers under the subscriber agreement not to send unsolicited electronic messages, including SMS and MMS and to take appropriate measures to prevent the abuse of electronic mail user account (Article 179 paragraph 2);
 - 46) fails to warn the subscriber or temporarily disable the use of electronic mail user account and to inform the user thereof without delay and in writing (Article 179 paragraph 3).
- (2) For the offence referred to in paragraph 1 of this Article, the responsible person within a legal entity shall be fined in the amount between EUR 200 and EUR 2.000.
 - (3) For the offence referred to in paragraph 1 of this Article, entrepreneur shall be fined in the amount between EUR 600 and EUR 6.000.
 - (4) For the offence referred to in paragraph 1 of this Article natural person shall be fined in the amount between EUR 100 to EUR 1000.

- (5) If the offence referred to in paragraph 1 of this Article resulted in material gain, in addition to the fine, the measure of confiscation of such material gain shall be imposed.

Article 196

- (1) For an offence, a legal entity shall be fined in the amount between EUR 2.000 to EUR 15.000, if it:
- 1) designs, produces, imports, distributes, sells, rents or owns unauthorized devices which allow access to a protected service for commercial purposes (Article 60 paragraph 5);
 - 2) installs, maintains or provides a replacement of unauthorized devices which allow access to a protected service (Article 60 paragraph 6);
 - 3) performs commercial communications for the purpose of advertising, offering or placing on the market of unauthorized devices referred to in Article 60 paragraph 5 of this Law (Article 60 paragraph 7);
 - 4) fails to record and keep the costs of the Universal Service referred to in Articles 86 to 90 of this Law separately from other costs of services (Article 93 paragraph 1);
 - 5) fails to inform the Agency of the change in data referred to in Article 113 paragraph 1 item 1 and 2 of this Law, within 30 days from the date of change (Article 113 paragraph 3);
 - 6) fails to enable its subscribers, upon their request, to retain their numbers assigned under the numbering plan when changing the operator (Article 139 paragraph 1);
 - 7) in the procedure of porting the number, charges the fee which is not cost oriented or which does not stimulate the use of this option (Article 140 paragraph 2);
 - 8) the provisions on minimum term of subscriber agreement present a limitation or barrier for the subscriber requesting to port the number to another operator (Article 140 paragraph 6);
 - 9) fails to submit to the Agency the data on numbers ported in the previous year, until January 15th of the current year (Article 140 paragraph 7);
 - 10) in the shortest possible time fails with the number transfer and inclusion and after the conclusion of the number transfer contract does not activate the number within one working day (Article 141 paragraph 1);
 - 11) abuses calls to emergency service numbers (Article 143 paragraph 5);
 - 12) fails to enable the users from other countries to call non-geographic numbers defined in the Numbering Plan (article 145 paragraph 5);
 - 13) fails to enable the subscriber to terminate subscriber agreement at any time (Article 152 paragraph 3);
 - 14) limits the use of the terminal equipment to the operation within its own network and the subscriber does not conclude the subscriber agreement for the minimum term (Article 152

paragraph 7)

- 15) fails to meet a reasonable request of user for connection to radio or telecommunications terminal equipment (Article 154 paragraph 1);
- 16) at the request of the user, fails to enable free-of-charge limitation of spending for the accounting period (Article 156 paragraph 1);
- 17) at the request of user, fails to provide free-of-charge outgoing call barring to a specific number or a group of numbers and/or SMS or MMS barring to or from particular types of numbers (Article 156 paragraph 2);
- 18) in the event that subscriber's spending exceeds his/her average spending in the last three months, fails to deliver free-of-charge notification to the subscriber and to keep records thereof (Article 157 paragraph 1);
- 19) at the request of the subscriber, fails to submit to the subscriber the statement of current spending, which is not older than six hours, and for roaming communication, the statement which contains spending in the last 24 hours (Article 157 paragraph 2);
- 20) at the request of subscribers, fails to provide a simple and free of charge call forwarding service (Article 158 paragraph 1);
- 21) fails to submit a written notification including detailed explanation of the reasons for refusal to perform call forwarding, within eight days from the receipt of the request (Article 158 paragraph 3);
- 22) fails to provide subscribers, in a simple way and free of charge, with the possibility of barring of automatic call forwarding towards their terminal devices which was made by a third party (Article 158 paragraph 4);
- 23) at the request of subscribers of publicly available telephone services fails to enable the keeping of number when changing the operator in accordance with Articles 139 and 141 of this Law (Article 160 paragraph 1 item 1);
- 24) at the request of subscribers of publicly available telephone services fails to enable the keeping of number at geographical change of network terminal point within the same network group (Article 160 paragraph 1 item 2);
- 25) at the request of subscribers of publicly available telephone services fails to enable the keeping of number upon the change of service (Article 160 paragraph 1 item 3);
- 26) denies the right to a subscriber of publicly available telephone services to have his/her personal data entered in the operator's directory (Article 161 paragraph 1);
- 27) fails to provide to the subscriber free-of-charge information on the data entered in the directory (Article 161 paragraph 3);
- 28) the bill referred to in Article 162 paragraph 2 of this Law does not show the calls to toll-free telephone numbers, including to the numbers of emergency services (Article 162 paragraph 4);

- 29) at the request of the subscriber, fails to issue itemized bill (listing), at least once a month and free of charge (Article 162 paragraph 5);
 - 30) fails to enable the user to file a complaint regarding the access to and quality of services and regarding the bill for the provided services (Article 163 paragraph 1);
 - 31) fails to send to user a written explained decision within eight days from the date of the receipt of objection referred to in Article 163 paragraph 2 of this Law (Article 163 paragraph 3);
 - 32) fails to warn subscriber, in a reliable manner, and to determine an adequate period for the elimination of irregularities and/or for the settlement of outstanding debts and to specify the measures to be taken if the subscriber fails to proceed according to warning (Article 164 paragraph 2);
 - 33) fails to compensate the subscriber for the losses resulting as a consequence of poor service quality or restriction of access to the network or service (Article 167 paragraph 2);
 - 34) fails to offer the calling user the possibility of preventing the presentation of the calling line identification on a per-call basis or for all calls, in a simple manner and free of charge (Article 176 paragraph 1);
 - 35) fails to enable the called subscriber a simple and free-of-charge possibility of prevention of presentation of the calling line identification of incoming calls (Article 176 paragraph 2);
 - 36) fails to offer to the called subscriber a simple and free-of-charge possibility of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling subscriber or user (Article 176 paragraph 3);
 - 37) fails to enable the called subscriber a simple and free-of-charge possibility of prevention to the calling user the presentation of the number to which the call was forwarded (Article 176 paragraph 4);
 - 38) fails to inform the public of services and possibilities in accordance with Article 176 paragraphs 1,2,3, and 4 of this Law (Article 176 paragraph 6);
- (2) For the offence referred to in paragraph 1 of this Article, the responsible person within a legal entity shall be fined in the amount between EUR150 to EUR 1.500.
 - (3) For the offence referred to in paragraph 1 of this Article, entrepreneur shall be fined in the amount between EUR 500 to EUR 5.000.
 - (4) For the offence referred to in paragraph 1 of this Article natural person shall be fined in the amount between EUR 50 to EUR 500.
 - (5) If the offence referred to in paragraph 1 of this Article resulted in material gain, in addition to the fine, the measure of confiscation of such material gain shall be imposed.
 - (6) For the offence referred to in paragraph 1 items 1, 2 and 3 of this Article, the offender shall

receive the protective measure of object confiscation. The objects resulting from commission of an offense referred to in paragraph 1 items 1, 2 and 3 shall be destroyed.

- (7) A legal or natural person or entrepreneur who performs some other independent business activities and commits offenses referred to in paragraph 1 of this Article in the performance of the activities thereof may be sanctioned by suspension of activities or parts of activities for a period of six months if the offense is particularly serious because of the manner of execution, or due to consequences, offender's proceeds or other circumstances of the offense that make it especially serious.

XIV TRANSITIONAL AND FINAL PROVISIONS

Compliance Article 197

- (1) Legal or natural person that has been registered in the Registry of Operators and/or the Registry of issued approvals for use of limited resources on the effective date of this Law, shall continue with its operations in accordance with this Law.
- (2) Persons referred to in paragraph 1 of the Article hereof shall harmonize the organisation and manner of operation and the general terms for service provision with this Law within six months from the date of its coming into force.
- (3) In the event of amendments to the general terms for service provision referred to in paragraph 2 of the Article hereof, the provision of Article 151 paragraph 6 of this law shall not apply.

Validity of approvals and licenses Article 198

- (1) Approvals for use of frequencies, numbers or addresses issued until the effective date of this Law shall be valid until the expiry of the term for which they were issued.
- (2) Approvals for procurement and installation of radio stations, operating licenses and temporary licenses for radio stations issued until the effective date of this Law shall be valid until the expiry of the term for which they were issued.

Universal Service operators Article 199

The Agency's decisions on the designation of Universal Service operator issued in accordance with the Law on Electronic Communications („Official Gazette of Montenegro“, Nos. 50/08, 70/09, 49/10, 32/11 and 6/13) shall remain valid until the expiry of the period for which they were issued or until the issue of new decisions on the designation of Universal Service operator.

Operators with significant market power Article 200

The Agency's decision on the designation of the operator with significant market power issued in accordance with the Law on Electronic Communications („Official Gazette of Montenegro“, Nos. 50/08, 70/09, 49/10, 32/11 and 6/13) shall remain valid until the issue of new Agency's decisions on the designation of operator with significant market power.

Continuance of the Agency's activities and its bodies

Article 201

- (1) The Agency shall continue with its activities in accordance with this Law.
- (2) The President and the members of the Council and the Agency Executive Director shall continue their work until the expiry of the term of office for which they were appointed.
- (3) The Agency Council shall make the Agency Statute compliant with this Law within 60 days from the effective date of this Law.

Commenced procedures

Article 202

The procedures commenced in accordance with the Law on Electronic Communications („Official Gazette of Montenegro“, Nos. 50/08, 70/09, 49/10, 32/11 and 6/13) shall be ended under that Law.

Passing of regulations

Article 203

- (1) By-laws shall be passed under the authority of this Law within one year from the effective date of this Law.
- (2) Until the regulations referred to in paragraph 1 of this Law come into force, the regulations passed under the Law on Electronic Communications („Official Gazette of Montenegro“, Nos. 50/08, 70/09, 49/10 and 32/11) shall be applied.
- (3) Until passing of the regulations referred to in Article 41 paragraph 6 of this Law, the Agency shall issue terms for construction of subscriber communications cable, cables for cable distribution and/or joint antenna systems in accordance with Article 26, paragraphs 4 and 5 of the Law on Electronic Communications („Official Gazette of Montenegro“, Nos. 50/08, 70/09, 49/10, 32/11 and 6/13).

Implementation of the Strategy

Article 204

The Strategy for the Development of Information Society 2012-2016, in its part relating to the development of electronic communications shall be applied until the expiry of the period for which it was adopted.

Termination of validity

Article 205

On the date of entry into force of this Law, the Law on Electronic Communications („Official Gazette of Montenegro“, Nos. 50/08, 70/09, 49/10, 32/11 and 6/13) shall cease to be valid, except for the provision referred to in Article 26 paragraphs 4 and 5, which shall apply until the effective date of the regulation referred to in Article 41 paragraph 6 of this Law and Article 116 of the Law on Amendments to the Law which prescribes fines for violations („Official Gazette of Montenegro“, number 40/11).

Termination of application

Article 206

(deleted)

Coming into force
Article 207

This Law shall come into force on the eighth day from the date of its publication in the "Official Gazette of Montenegro."

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Podgorica, 30th .July 2013

PARLIAMENT OF MONTENEGRO, 25th CONVOCATION

P R E S I D E N T

Ranko Krivokapić

