

UNOFFICIAL TRANSLATION

396/1997

Telecommunications Market Act

Pursuant to the decision of Parliament, the following shall be enacted:

Chapter 1

General provisions

Section 1

Purpose of the Act

The purpose of this Act is to promote the efficiency of the telecommunications markets of the country so that the availability of telecommunications is:

- 1) in accordance with the reasonable needs of the users of telecommunications;
- 2) competitive with each other;
- 3) technically advanced;
- 4) of good quality;
- 5) functionally reliable and secure; as well as
- 6) reasonably priced.

Section 2

Means of the Act

In order to achieve the purpose of the Act, the competition between telecommunications networks and telecommunications services shall be promoted and supply principles shall be created ensuring the public availability of telecommunications networks and services in accordance with section 1.

The duty of the Council of State shall, through the administrative operations carried out by it, be to ensure that telecommunications networks and services are available for all users in the whole country on reasonable conditions.

Section 3

Scope of application

Telecommunications shall be governed by the provisions of this Act. Radio equipment forming part of the telecommunications network shall further be governed by provisions issued separately thereon.

This Act shall not apply to:

- 1) internal telecommunications;
- 2) the use of radio equipment for broadcasting or other than public telecommunications;
- 3) the resale of telecommunications networks and telecommunications services;
- 4) telecommunications primarily for the purpose of other telecommunications than the provision of voice telephony to an extent separately decided by the Ministry; nor to
- 5) telecommunications of minor importance with regard to the application of the Act in accordance with separate decisions of the Ministry.

Without prejudice to the provisions of paragraph 2 above, the provisions of chapters 3 and 9 shall apply to operations referred to in paragraph 2 to an extent separately decided by the Ministry.

The provisions of sections 12 to 14 shall further apply to a telecommunications network which is to be connected as part of, or to an interconnection of, the public telecommunications network.

The provisions of chapter 7 shall apply to the import, sale, marketing, possession, use and sales promotion of telecommunications terminal equipment and certain other equipment and systems.

Section 4

Definitions

In this Act:

- 1) *telecommunications* shall mean the construction and maintenance of telecommunications networks as well as the routing of telecommunications therein;

2) *public telecommunications* shall mean the provision of services belonging to telecommunications for public use;

3) *a telecommunications network* shall mean the transmission systems which enable the transmission of messages between certain interconnection points either by wire, radio, optical or other electromagnetic means;

4) *a public telecommunications network* shall mean a telecommunications network which is used either in part or as a whole to provide public telecommunications services;

5) *a telecommunications network service* shall mean a service where the telecommunications network is offered to be used in the provision of telecommunications services;

6) *telecommunications service* shall mean a service the provision of which consist in part or as a whole of the transmission or routing of messages in a telecommunications network;

7) *a public telecommunications service* shall mean a telecommunications service where the group of users is not restricted in advance;

8) *telecommunicating* shall mean the operations of users to transmit and receive messages through a telecommunications network between telecommunications terminal equipment;

9) *a subscription* shall mean a telecommunications network interface where the user gains access to the public telecommunications network and where the technical interface specifications are determined (*network termination point*), as well as, where applicable, the legal relationship between a telecommunications operator and the user;

10) *a user* shall refer to a natural or legal person that has concluded a contract with the telecommunications operator on a subscription or the use of telecommunications services, and, where applicable, a natural or legal person using telecommunications services, including a telecommunications operator that uses in its telecommunications telecommunications services it has acquired;

11) *a telecommunications operator* shall mean a legal person that offers for public use services belonging to telecommunications that it provides itself;

12) *a telecommunications network operator* shall mean a telecommunications operator that provides telecommunications network services;

13) *a telecommunications service operator* shall mean a telecommunications operator that, by using telecommunications equipment in its possession, provides telecommunications services and has the legal and factual possibility to offer subscriptions to its services as well as to close a subscription or otherwise to prevent the access of a user to the services;

14) *essential requirements* shall mean reasons of public interest, other than economic reasons, due to which the access to public telecommunications networks and public telecommunications services can be restricted, such as the safety of the network operations, the maintenance of the operability of the network, the ensurance of the compatibility of the services and data protection;

15) *a significant market power* shall mean the position of a telecommunications operator in the telecommunications markets if the telecommunications operator, taking into consideration, among other things, the extent of its business and its market share in the geographical area in question, its possibility to control the access of users to telecommunications networks, the financial resources available to it and its experience in the provision of such services, can have a significant influence in the operational conditions of the markets;

16) *interconnection* shall mean the physical and logical connection of the services of telecommunications operators in order to ensure that the users can communicate within each others and access to the services of another telecommunications operator;

17) *re-selling* shall mean the sale of telecommunications network services and telecommunications services further acquired from a telecommunications operator as such or as part of another service;

18) *telecommunications terminal equipment* shall mean any equipment that for the purpose of sending, handling or receiving information is meant to be connected either directly to a termination point of a public telecommunications network or to operate in connection with the public telecommunications network either through direct or indirect connection to an connection point of the public telecommunications network by wire, radio, optical or other electromagnetic means;

19) *a leased line* shall mean telecommunications network services providing clear transparent transmission capacity between network termination points without on-demand switching;

20) *a subscriber line* shall mean the part of a telecommunications network between the subscription and the nearest telecommunications equipment by which messages can be routed;

21) *a telecommunications fee* shall mean a fee charged for a telecommunications service;

22) *a decoding system* shall mean any equipment, part of equipment or another system whose purpose is to decode the protective code effected through specific technical means from a message conveyed in the telecommunications network; as well as

23) *the Ministry* shall mean the ministry in question referred to in the Standing Orders of the Council of State (1995/1522).

Chapter 2
Operation of telecommunications
 Section 5
Telecommunications operators

A telecommunications operator shall, prior to commencing public telecommunications, submit a notification on telecommunications in accordance with section 6 unless provided otherwise in paragraphs 2-4.

The provision of telecommunications network services in the public mobile network shall be subject to a license in accordance with section 7.

Telecommunications solely for the purpose of broadcasting or distribution of programmes to public shall not require a notification or license pursuant to this Act.

The Ministry shall discharge telecommunications from the liability to notify in accordance with paragraph 1 if the maintenance of the notification procedure of such telecommunications no longer is necessary for the attainment of the purposes of this Act referred to in section 1.

The Ministry shall, in accordance with the legislation of the European Communities, determine the telecommunications operators which shall be deemed to have a significant market power.

Section 6
Notification on telecommunications

A notification on telecommunications shall be submitted to the Ministry. The notification shall contain the information prescribed by the Ministry.

Section 7
License

The license shall be granted by the Ministry. The license application shall contain the information prescribed by the Ministry.

Prior to granting a license, the Ministry shall make a public notification of the possibility to apply for licenses.

A license shall be granted if it is evident that:

1) the applicant has sufficient financial resources to attend to the duties of a telecommunications network operator;

2) the applicant complies with the provisions and regulations on telecommunications; as well as that

3) radio frequencies are available for the operation of the telecommunications referred to in the application.

If licenses can be granted to some of the applicants only due to the scarcity of radio frequencies, they shall be granted to those applicants whose operations best promote the attainment of the purposes of this Act referred to in section 1.

A license shall be granted for a set period of 20 years at the most.

The license shall determine the operational area of the telecommunications operator. Conditions in accordance with the essential requirements may be attached to the license.

Section 8
Duties of a telecommunications operator

A telecommunications service operator shall offer telecommunications services and a telecommunications network operator shall offer telecommunications network services to the users in accordance with the provisions of this Act.

In addition to compliance with the provisions of paragraph 1, a telecommunications operator shall:

1) for its part, ensure that possibilities for telecommunications in accordance with section 1 are available for users;

2) ensure the interconnection of its telecommunications networks and telecommunications services with other telecommunications networks and telecommunications services as provided for in chapter 3;

3) ensure its operations with minimum interference also in exceptional circumstances by participating in readiness planning for emergency situations, by advance planning of operations to be carried out in exceptional circumstances and through other measures;

4) on request, lease to other telecommunications operators for the operation of public telecommunications any free segments of cable channels constructed by it and any free antenna places in radio masts belonging to a public telecommunications network if the construction of parallel cable channels or radio masts is not expedient due to reasons relating to environmental protection, zoning or regional planning and if the cable channels and antenna places are no longer necessary for the present and reasonable future needs of the own users of the telecommunications operator;

5) offer the telecommunications networks and services required in the legislation of the European Communities as decided separately;

6) ensure appropriate invoicing of telecommunications services in the manner provided for under section 15, paragraph 2 by the Ministry; as well as

7) differentiate its operations in the manner provided for in chapter 6.

If the tasks resulting from paragraph 2, subparagraph 3 require measures that clearly differ from telecommunications services to be considered ordinary and which entail considerable additional costs, such additional costs may be reimbursed from State funds unless the costs incurred thereby are paid by the party ordering the measure in question.

The Ministry shall:

1) issue more detailed guidelines on the application of paragraph 2, subparagraph 3 and more detailed provisions on the application of paragraph 2, subparagraph 4; as well as

2) confirm the regulations referred to in paragraph 2, subparagraph 5 in compliance with the legislation of the European Communities.

The Ministry may order that the obligations imposed upon telecommunications operators under paragraph 4, subparagraph 2 shall only apply to telecommunications operators with a significant market power and that, notwithstanding that, at least one telecommunications operator everywhere in the country shall have such obligations. If the market force of none of the telecommunications operators is significant, such obligations shall be ordered to apply to one or several telecommunications operators whose market force is greater than that of the others.

Section 9

Assignment of a telecommunications network in certain cases

The owner or holder of a telecommunications network who allows the use of its telecommunications network for the provision of telecommunications services shall be obliged to assign any free segment of the telecommunications network constructed for the provision of telecommunications services for the use of another telecommunications service operator.

The obligation provided for in paragraph 1 shall not apply to a network forming a part of and owned by the owner of real estate.

Non-discriminatory terms shall be applied to all telecommunications service operators in the assignment of a telecommunications network taking into consideration the provisions of chapter 5 on telecommunications fees.

The Ministry shall, where necessary, issue orders relating to factors to be taken into consideration in evaluating the non-discrimination referred to in paragraph 3.

Chapter 3

Interconnection of telecommunications networks and telecommunications services

Section 10

Obligation to interconnect

The public telecommunications networks of telecommunications network operators complying with the essential requirements laid down shall be interconnected unless otherwise provided for by regulations

issued under section 11. The interconnection shall be effected at the point indicated by the telecommunications operator requesting interconnection unless otherwise provided for by the Ministry.

The telecommunications networks shall be interconnected in accordance with their technical possibilities in the manner provided for in this Act as soon as possible after the request for interconnection has been presented.

The telecommunications operator shall be liable to negotiate on the interconnection of the telecommunications networks and services of another telecommunications operator to its telecommunications networks and services. A telecommunications operator with a significant market power shall accept all reasonable interconnection requests unless otherwise provided for by regulations issued under section 11.

A telecommunications service operator shall not be liable to offer its telecommunications services in the telecommunications networks of all telecommunications network operators. The Ministry shall provide the extent to which this section shall otherwise be applied in the interconnection of telecommunications services.

The fees resulting from the interconnection are governed by section 18. If telecommunications operators cannot agree on the other conditions of interconnection relating to telecommunications, the Ministry shall decide the matter in compliance with the provisions of section 36 on the settlement of disputes.

Section 11

Provisions relating to interconnection

The Ministry shall issue more detailed provisions on interconnection in compliance with the legislation of the European Communities. The provisions shall promote the attainment of the purposes of this Act referred to in section 1.

Without prejudice the provisions on secrecy elsewhere in law, the Ministry may provide that contracts relating to interconnection be public and that the obligations shall, in part or as a whole, concern only telecommunications operators with a significant market power.

Section 12

Telecommunications contracting

A telecommunications network to be connected to a public telecommunications network or to a subscription of a public telecommunications network shall meet the technical requirements set under section 37.

The person or undertaking responsible for the construction and maintenance of a telecommunications network referred to in paragraph 1 (*the telecommunications contractor*) shall have proper authorization, and the terms and procedure for granting such authorization shall be determined by the Telecommunications Administration Centre. A telecommunications network may be connected to a public telecommunications network only by an authorized telecommunications contractor or a telecommunications network operator. Minor construction and maintenance work shall, however, not require an authorization as ordered by the Telecommunications Administration Centre.

Section 13

The duties of the owner of a telecommunications network

The owner of a telecommunications network shall:

- 1) maintain its network referred to in section 12, paragraph 1 so that it complies with the requirements referred to in the section; as well as
- 2) keep and maintain the network drawings and other documents in accordance with provisions to be issued under section 37.

Section 14

Disconnection of a telecommunications network from the public telecommunications network

A telecommunications operator shall have the right to disconnect a telecommunications network from the public telecommunications network and to close down the network termination points effected thereby if:

1) the telecommunications network causes danger or interference to public telecommunications services; or if

2) the telecommunications network is not made to comply with the technical requirements issued under section 37 in spite of an exhortation to that effect issued by the Telecommunications Administration Centre.

The provisions of section 16, paragraph 2 shall also apply to the right of a telecommunications operator to close down a subscription or to interrupt the provisions of telecommunications services.

Chapter 4
The rights and duties of users
Section 15
The rights of users

Anyone shall have the right to:

1) obtain a subscription to a public telecommunications network at a chosen point of the network unless otherwise provided for by the Ministry in a single case because a connection at the chosen point of a telecommunications network would be technically inappropriate, would lead to the endangering of data protection or would otherwise be unreasonable for the telecommunications operator and because the need for telecommunications of the user can be met also otherwise in a technically and economically appropriate manner;

2) lease from telecommunications operators subscriber lines and leased lines between the points of a telecommunications network that they have indicated within the transmission capacity of the public telecommunications network, unless otherwise provided for by the Ministry in cases referred to in subparagraph 1 and to use them in telecommunicating or in the provision of telecommunications services for further use;

3) use public telecommunications services offered through public telecommunications networks;

4) connect to network termination points telecommunications terminal equipment approved in accordance with chapter 7 and in working order;

5) receive an invoice itemized in accordance with section 50, paragraph 2 for its telecommunications fees; as well as

6) offer the services it has acquired from a telecommunications operator to other users.

The Ministry shall lay down the general principles governing the terms and conditions of the provision of telecommunications services, which shall contain further provisions regarding matters to be taken into consideration in order to safeguard the rights of users.

Section 16
The duties of users

A user shall:

1) pay the fees collected by a telecommunications operator for itself or on behalf of another telecommunications operator for the subscription, the use of the telecommunications network and telecommunications services;

2) ensure that only telecommunications terminal equipment approved in accordance with chapter 7 and in working order are connected to a subscription in his possession; as well as

3) comply with the contract concluded with a telecommunications operator in accordance with the general principles issued under section 15, paragraph 2 on the delivery of a telecommunications network or a telecommunications service.

A telecommunications operator shall have the right to close a subscription or to interrupt the provision of telecommunications services if the user fails to comply with the provisions of subparagraph 1 and does not rectify his actions within a reasonable time in spite of an exhortation.

Chapter 5
Telecommunications fees
Section 17
Fees to be collected from users

Telecommunications operators shall determine their telecommunications fees.

The Ministry shall, where necessary, issue orders on the general principles of telecommunications fees, the calculation of the costs and the publicity and itemization of the fees, if:

- 1) the attainment of the objectives in accordance with section 1 is endangered due to the fees policy of a telecommunications operator which has a significant market power or due to the general development of telecommunications fees; or
- 2) the legislation of the European Communities require the regulation of certain telecommunications fees.

Section 18

Mutual telecommunications fees of telecommunications operators

Telecommunications operators shall mutually agree on telecommunications fees which are collected for:

- 1) interconnection of telecommunications networks and services in accordance with chapter 3; subparagraph 4; or
- 2) the leasing of cable channels and antenna places in accordance with section 8, paragraph 2, subparagraph 4; or
- 3) other mutual services of telecommunications operators.

A telecommunications operator may require an advance payment or collateral from another telecommunications operator as security for the payment of the fee referred to in paragraph 1.

The mutual fees of telecommunications operators referred to in paragraphs 1 and 2 shall be non-discriminatory and reasonable with regard to the costs incurred through the provision of the service when:

- 1) the fee is collected for a subscriber line leased to another telecommunications service operator under section 15, paragraph 1, subparagraph 2 by a telecommunications network operator with a significant market power which operates also as a telecommunications service operator in its telecommunications network;
- 2) due to the significant market power of the telecommunications operator, a liberal fees policy would otherwise lead to non-attainment of the objectives in accordance with section 1;
- 3) a telecommunications operator collects the fee for a service referred to in section 8, paragraph 2, subparagraph 4; or
- 4) the legislation of the European Communities requires such regulation of certain telecommunications fees.

The Ministry shall, where necessary, issue orders on the general principles of telecommunications fees referred to in this section, the calculation of the costs and the publicity and itemization of the fees. The fee complying with the orders shall, in addition to the costs incurred through the provision of the service, also cover a reasonable profit on invested capital. The orders shall promote the objectives referred to in section 1. The Ministry may order that the obligations shall apply in part or as a whole only to telecommunications operators with a significant market power.

Section 19

Fees to be collected for the assignment of a telecommunications network

The fee collected for the assignment of a telecommunications network referred to in section 9 by the owner or holder of the telecommunications network shall be reasonable and non-discriminatory for all telecommunications operators.

The Ministry shall, where necessary, order which factors shall be taken into consideration in evaluating the reasonable and non-discriminatory nature referred to in paragraph 1. A fee complying with the orders shall, in addition to the costs incurred through the provision of the service, also cover a reasonable profit on invested capital.

Chapter 6

Differentiation of operations

Section 20

The operations to be differentiated

A telecommunications operator shall differentiate the business operations consisting of the provision of telecommunications network services and telecommunications services from each other as well as from its other business operations.

The Ministry may order that:

1) the different parts of the operations of telecommunications networks and telecommunications services shall be differentiated when the telecommunications operator has a significant market power in more than one of the telecommunications networks or services offered by it; as well as that

2) the provision of paragraph 1 shall not be applied to a telecommunications operator whose telecommunications operations are of minor importance.

Section 21

Financial Statements

In this Act, differentiation shall mean that an income statement shall be drawn up for each financial period of the operations to be differentiated and, in the case of telecommunications network operations, also a balance sheet. The income statement and balance sheet, which shall be derivable from the accounts of the companies, shall be drawn up in accordance with the provisions of the Accounting Act (1973/655), where applicable.

If a telecommunications operator with a significant market power operates in its telecommunications network also as a telecommunications service operator, the rent from subscriber lines taken into its own use shall be entered in the income statement in accordance with the same principles as it uses to collect payments from other telecommunications service operators under section 18, paragraph 3, subparagraph 1.

Section 22

Further provisions

The Ministry shall, where necessary, issue further orders and instructions on the implementation of the differentiation, the drawing up of income statements and balance sheets as well as on the publication of information. Telecommunications operators shall, on request of the Ministry, submit to it their financial statements as well as the income statements and balance sheets of the differentiated operations together with any notes thereto.

Chapter 7

Telecommunications terminal equipment

Section 23

Import, sale and marketing

Telecommunications terminal equipment intended to be connected to a public telecommunications network may not be imported for sales purposes or to be transferred further, marketed, sold or otherwise transferred to another before ensuring that it complies with the requirements set under section 37.

Further provisions on the application of this section shall be issued by the Telecommunications Administration Centre.

Section 24

Conditions for sale of telecommunications terminal equipment

The sales price of telecommunications terminal equipment may not be dependent on whether the buyer acquires from the seller of the telecommunications terminal equipment also services belonging to the field of telecommunications.

Section 25

Decoding systems

Unlawful possession, use, manufacture, import, marketing and sales promotion of a decoding system of a protective code shall be forbidden.

The Telecommunications Administration Centre may grant permission for the use of a system referred to in paragraph 1.

Section 26
Standards for television signals

The Telecommunications Administration Centre shall, under section 37, issue technical requirements in accordance with the legislation of the European Communities on:

- 1) standards relating to television signals and their transmission;
- 2) the technical specifications of television receivers and other consumer equipment meant for receiving television signals; as well as on
- 3) technical specifications of on-demand television systems.

Section 27
Provision of on-demand television services

Anyone who provides on-demand television services to the public shall, under fair, non-discriminatory and reasonable terms, provide broadcasting operators with such technical services that the users who have in their use decoding equipment controlled by the service provider can receive the digital broadcasts of the broadcasting operators.

An operator providing on-demand television services shall keep separate books of these operations.

Anyone operating broadcasting shall make public a price list of coded transmissions indicating whether the decoding equipment is included in the contract to be concluded on the receipt of the broadcasts.

The Ministry shall, where necessary, issue further provisions regarding the factors to be taken into consideration in keeping separate books.

Chapter 8
Installation of a telecommunications cable
Section 28
The right to install a telecommunications cable

The right to install a telecommunications cable on the land of another for the needs of a community or real estate shall be governed by specific provisions. The right to install a telecommunications cable may also be based on a cable route plan drawn up by a telecommunications operator in accordance with the provisions of this chapter.

Section 29
A cable route plan

A cable route plan referred to in section 28 above shall take into account any existing zoning as well as, to the extent possible, any other plans regarding the use of the area in question. The landscape and environmental factors shall be taken into consideration while drawing up the plan. Where possible, telecommunications cables shall be installed in the road areas referred to in the Act on Public Roads (1954/243) and the public areas referred to in the Act on the Forming of Real Estates (1995/554). The plan shall be drawn up so that the construction and maintenance of telecommunications cables will not cause harm or damage that is avoidable at reasonable costs.

Section 30
Publicity and hearing procedure

The telecommunications network operator shall make the route plan public in the municipality in question in accordance with the provisions of the Act on Public Notices (1925/34).

The telecommunications network operator shall further publish a notice of the route plan in a newspaper generally distributed in the locality as well as send the plan to the estate owners concerned and to others whose interests or rights may be affected by the plan and whose addresses are known. The notice shall specify the estates affected by the plan.

A statement of the relevant authorities shall also be obtained on the plan.

Section 31 *Objections*

An estate owner and any other party whose interests or rights are affected by the route plan shall have the right to file an objection with the Municipal Building Board within 30 days from the date on which the plan was made public in accordance with section 30, paragraph 1. The public notice and the notice referred to in section 30, paragraph 2 shall contain a statement of this right as well as the date by which the objection shall be filed.

If an objection is filed and no agreement is reached between the telecommunications network operator and the objector as to possible measures resulting from the objection, the dispute shall be settled by the Building Board.

In its decision, the Building Board may order that the decision be complied with even before it becomes final. If the decision has been appealed, the appeal authority may, however, forbid the enforcement of the decision until the appeal has been decided.

Section 32 *Construction rights*

By virtue of a route plan which is enforceable under section 31, the telecommunications network operator shall have the right to undertake construction work along the telecommunications cable route necessary for the installation of the telecommunications cables as well as equipment, minor structures and poles related thereto.

In connection with the above construction work, any trees and other plants on the cable route may be cut down if their removal is necessary for the construction and maintenance of the route as well as the necessary equipment may be installed in buildings and other structures. The telecommunications network operator shall restore the area after completion of the work.

In connection with the work referred to in paragraph 1 above as well as in the maintenance of equipment referred to therein and field surveys relating to the planning of the route, persons employed by the telecommunications network operator shall have the right to enter private property and to put up any necessary signs in the terrain.

Section 33 *Compensation*

The telecommunications network operator shall have the right to use the road areas and public areas referred to in section 29 as telecommunications cable routes free of charge. After completion of the work, the telecommunications network operator shall restore the area in question.

With regard to areas other than those referred to in paragraph 1, the owner and holder of the estate shall have the right to full compensation for any loss and damage caused by a measure referred to in section 32. The claim for compensation shall be filed with the telecommunications network operator within one year from the date on which the loss or damage occurred.

If no agreement is reached regarding the compensation, the right to compensation shall be decided in accordance with the provisions of the Act on the Redemption of Real Property and Special Rights (1977/603) in a procedure initiated by an application filed with the competent Surveyance Office.

Section 34 *More extensive rights*

Where more extensive rights to the property of another than those provided for by section 32 are required for the construction and maintenance of telecommunications cables, the Act on the Redemption of Real Property and Special Rights shall be complied with.

Chapter 9
Supervision and control
Section 35

General supervision, promotion and control

The general supervision and promotion of telecommunications shall be the duty of the Ministry.

The Telecommunications Administration Centre shall control compliance with this Act and with the provisions and orders issued thereunder.

Section 36
Settlement of disputes

Anyone who deems that a telecommunications operator acts contrary to this Act or the provisions and orders issued thereunder may submit the matter to the consideration of the Ministry or the Telecommunications Administration Centre.

The Ministry and the Telecommunications Administration Centre shall, in compliance with the purposes of this Act referred to in section 1, promote the service operations of telecommunications operators and their mutual cooperation as well as aim to settle any disputes primarily through negotiations with the parties. Where necessary, the party guilty of an error or neglect shall be made liable to rectify its action.

If the matter under review of the Ministry or the Telecommunications Administration Centre relates to an action which may be in violation of the provisions on restrictive business practices of the Act on Restrictive Business Practices, the Ministry and the Telecommunications Administration Centre can refer the matter, for the part relating to restrictive business practices, to be handled in accordance with the Act on Restrictive Business Practices.

The provisions of this Act and the provisions and orders issued thereunder shall also be taken into consideration in the evaluation of the restrictive business practices of telecommunications markets and the harmful effects thereof.

The provisions of this section on telecommunications operators shall, where applicable, apply also to the operators of on-demand television services and broadcasting in cases referred to in sections 26 and 27.

Section 37
Technical specifications

The Telecommunications Administration Centre shall confirm the technical requirements relating to telecommunications networks, telecommunications terminal equipment and other telecommunications equipment.

Section 38
Elimination of interference

If a telecommunications network or telecommunications terminal equipment causes electrical or electromagnetic interference in a telecommunications network, telecommunications terminal equipment, radio equipment or electrical appliance although both the network, equipment or appliance causing the interference and that suffering from the interference comply with the provisions and requirements with regard to their relevant technical characteristics, the Telecommunication Administration Centre shall make the parties concerned a proposal regarding measures for the elimination of the interference or the restriction of its effects.

If the measures necessary to eliminate or restrict the interference cannot be agreed upon, the matter shall be decided by the Telecommunications Administration Centre.

Section 39

Market supervision

The inspectors appointed by the Telecommunications Administration Centre shall supervise the import, marketing and sales promotion of telecommunications terminal equipment and decoding systems.

An inspector who presents evidence regarding the appointment by the Telecommunications Administration Centre referred to in paragraph 1, shall, in order to perform his supervisory task, have the right to gain access to a place where telecommunications terminal equipment or a decoding system is located or where it is suspected to be located on reasonable grounds. The inspection or supervisory task may, however, not be performed in a place belonging to the sphere of domestic peace, unless there is special cause to suspect that the provisions of section 45, paragraph 1, subparagraph 1, 2 or 5 have been violated.

If there is probable cause to suspect that the provisions on import or marketing of telecommunications terminal equipment or section 25 have been violated, the inspector shall have the right to remove the equipment for inspection and, without delay, forbid the marketing or transfer of the equipment or system during the inspection to be carried out. A certificate shall be issued to the person whose equipment or system has been removed for inspection, indicating the amount of property removed for inspection as well as the reason for the inspection.

On request of the inspector, anyone marketing telecommunications terminal equipment shall submit to the inspector information on the technical specifications and conveyance of the equipment and systems as well as anyone marketing telecommunications terminal equipment shall further submit information on their conformity assurance.

Section 40

Right to obtain information

Notwithstanding the provisions on secrecy elsewhere in the law, the Ministry and the Telecommunications Administration Centre shall have the right to obtain from telecommunications operators, associations of telecommunications operators, owners and holders of telecommunications networks as well as from authorized telecommunications contractors all information on the financial position of those submitting the information and on their operations carried out under this Act necessary for the performance of their duties provided for in this chapter.

The Ministry may oblige a telecommunications operator to notify all agreements relating to the acquisition of an enterprise, the purchase of a majority of shares or other acquisition of control of the operations of another business operator which are necessary when considering whether a telecommunications operator has a significant market force.

Section 41

Transfer of competence

The Ministry may transfer its duties under this Act relating to the technical enforcement of the Act to the Telecommunications Administration Centre within limits set by it.

Chapter 10

Enforcement, sanctions and appeal

Section 42

Enforcement

Anyone who violates this Act or provisions or orders issued thereunder may be ordered to amend his fault or neglect by the Ministry or the Telecommunications Administration Centre. In order to enforce the decision, a conditional fine or a threat that the operation is partly or fully discontinued or that the neglected measure is ordered to be carried out at the expense of the defaulted party in question may be imposed.

The cost of measures ordered to be carried out shall be paid from State funds and collected from the defaulted party in the order provided for in the Act on the Collection of Taxes and Charges through Distant Procedure (1961/367).

Section 43

Prohibition of telecommunications operations

The Ministry may prohibit a telecommunications operator to operate telecommunications and revoke the license of a telecommunications network operator in part or in full, if:

- 1) the telecommunications operator fails to comply with the provisions or orders issued on telecommunications and fails, after an exhortation to do so, to amend his action within a reasonable time; or if
- 2) taking into consideration the quality and extent of the operations carried out, the telecommunications operator would not fulfill the terms and conditions of a license in accordance with section 7, paragraph 3.

Section 44

Unauthorized telecommunications operations

Anyone who operates telecommunications:

- 1) without a license required by this Act or without submitting a telecommunications notification referred to in this Act or in violation of a prohibition issued under section 43;
 - 2) in violation of this Act or the provisions or orders issued thereunder; or
 - 3) in violation of the terms and conditions of a license
- shall, if a more severe penalty is not provided for elsewhere in the law, be sentenced for *unauthorized operating of telecommunications* to a fine or to imprisonment not exceeding six months.

Section 45

Violation of provisions on telecommunications operations

Anyone who willfully:

- 1) connects telecommunications terminal equipment to a public telecommunications network in violation of the provision of section 15, paragraph 1, subparagraph 4;
- 2) violates the provisions of section 23 on the import, sale and marketing of telecommunications terminal equipment;
- 3) performs work referred to in section 12, paragraph 2 without the authorization referred to in said provision;
- 4) fails to comply with the obligations imposed on the owner of a telecommunications network in section 13; or
- 5) holds, manufactures, uses, imports or markets a decoding system or promotes its sales in violation of section 25

shall, if a more severe penalty is not provided for elsewhere in the law, be sentenced for *a violation of the provisions on telecommunications operations* to a fine.

Anyone who willfully violates the secrecy obligation laid down in section 50, shall, unless the act is punishable in accordance with chapter 40, section 5 of the Penal Code or unless a more severe punishment is provided for elsewhere in the law, be sentenced in accordance with chapter 38, section 1 or 2 of the Penal Code.

Section 46

Provisions on confiscation

Any economic benefit accruing from a crime referred to in sections 44 and 45 to the person committing the crime or to the person on whose behalf the crime was committed as well as the object used to commit the crime shall be governed by the provisions of the Penal Code. Telecommunications equipment or a decoding system used as the object of a crime referred to in section 45, paragraph 1, 2 and 5 shall be ordered forfeited to the State except in extremely mitigating circumstances.

Section 47

Liability in damages

A telecommunications operator which, through an action in violation of provisions issued under section 10 or 11 relating to the duty to interconnect, has caused damage to another telecommunications operator, shall be liable to compensate the damage.

The provisions of paragraph 1 shall also be applied to damage which the owner or holder of a telecommunications network causes to a telecommunications operator through an action in violation of section 9.

Section 48
Appeal

Appeal against a decision of the Ministry and the Telecommunications Administration Centre shall be governed by the provisions of the Act on the Application of Administrative Law (1996/586). In its decision, the Ministry and the Telecommunications Administration Centre may order that the decision be complied with even before it becomes final. The appeal authority may, however, enjoin the enforcement of the decision until the appeal has been decided.

A decision by which the Ministry or the Telecommunications Administration Centre has imposed a conditional fine under section 42 shall not be subject to separate appeal.

Appeal against a decision of a Municipal Building Board under section 31, paragraph 2, shall be governed by the provisions on appeal against decisions of the Building Board in the Building Act (1958/370).

Chapter 11
Miscellaneous provisions
Section 49
Executory assistance

The Telecommunications Administration Centre shall be entitled to executory assistance from the police, the customs authorities and the Frontier Guard in the enforcement of this Act and provisions and orders issued thereunder. The customs authorities shall furthermore and in addition to the Telecommunications Administration Centre control compliance with provisions and orders on the import of telecommunications terminal equipment.

Section 50
Secrecy obligation

No one who is or has been employed by a telecommunications operator may disclose information regarding the content of a telecommunications message that has come to his knowledge in connection with his task. The secrecy obligation shall also apply to the identities of telecommunications parties as well as to any information that make their identification possible. Without prejudice to the above, a party liable to pay the telecommunications bill may, however, be disclosed identification information relating to telecommunication billing. The secrecy obligation referred to above shall also apply to an authorized telecommunications contractor referred to in section 12 as well as to a person employed by a telecommunications contractor.

Without prejudice to the secrecy obligation provided for in paragraph 1, the police may, by permission of the holder of the telecommunications subscription, obtain:

- 1) identification information of telecommunication connections made to the subscription necessary for solving a crime referred to in chapter 24, section 3a of the Penal Code;
- 2) identification information relating to messages sent from a mobile station as far as this is necessary for solving a crime due to which the mobile station or a subscription used therewith is unlawfully in the possession of another.

Notwithstanding the provisions of paragraph 1 and an agreement between a user and a telecommunications operator on the secrecy of identification information regarding the telecommunications subscription of the user, the telecommunications operator shall have the right to disclose to the police, or rescue authority who has received an emergency call or to other authorities who receive emergency calls identification information regarding the subscription from which an emergency call has been made. The identification information to be disclosed may, in addition to the subscription number, include also information on the installment address and holder of the subscription as well as on the location of the support station through which the emergency call from a mobile station has been routed to the public telecommunications network.

The right of an authority to obtain identification information of a message transmitted through telecommunications in other cases for the pre-trial investigation of a crime shall be governed by the Coercive Criminal Investigation Means Act.

No one who in connection with performing his tasks referred to in this Act or in provisions or orders issued thereunder has learned of a business or professional secret may disclose it to a third party or use it for his own benefit.

Section 51
*Measures resulting from the termination of
telecommunications operations*

If the license of a telecommunications operator is revoked, a telecommunications operator otherwise discontinues its operations or the service provision otherwise ceases, the Ministry shall decide upon measures necessary to maintain telecommunications operations as well as on the telecommunications operator that shall be liable to transfer a subscription to users whose service provision has ceased.

A telecommunications network operator may not close a subscription transferred by it to another telecommunications operator or prevent the use of a leased line due to a delayed payment or a breach of contract before the Ministry has been notified of the measure intended. The notification shall be submitted no less than one week before the measure.

If an agreement regarding the transfer of a telecommunications network is not reached with another telecommunications operator, the Council of State may decide on such transfer for compensation. The principles of compensation shall be governed by the provisions on compensation for redemption in the Act on the Redemption of Real Property and Special Rights.

Section 52
Work endangering telecommunications cables

Anyone undertaking work that may endanger telecommunications cables shall, prior to the work, establish any possible location of telecommunications cables in the area in question. Telecommunications network operators shall supply information on the location of telecommunications cables free of charge.

Section 53
Further provisions

Further provisions on the implementation of this Act shall be issued by decree.

Chapter 12
Provisions on entry into force and transition

Section 54
Entry into force

This Act shall enter into force on 1 June 1997.

This Act shall repeal the Telecommunications Act of 20 February 1987 (1987/183) with later amendments.

Measures necessary for the implementation of the Act may be taken prior to the entry into force of the Act.

Section 55
Transitory provision regarding licenses in force

A telecommunications operator who has a valid license and who wants to continue its operations subject to a license or notification under this Act, shall, depending on the nature of its operations, either submit the notification referred to in section 6 or apply for a license referred to in section 7 at the latest on a date to be provided for by Decree. A telecommunications operator that has submitted a telecommunications notification or applied for a license by the date set, may continue the operation of telecommunications under the terms and restrictions stated in its previous license until a license in accordance with this Act has been granted or the telecommunications notification has arrived at the Ministry.

The provisions of section 7, paragraph 2 on the notification of the possibility to apply for licenses shall not be applied in the handling of licenses referred to in paragraph 1 in the case of a license for operations which are already carried out by the telecommunications operator who has applied for the license.

If a license referred to in this Act is not granted, anyone who upon the entry into force of this Act was operating telecommunications under a license shall have to right to full compensation from the State for all damage resulting from the fact that the telecommunications network no longer can be used for telecommunications operations or in other reasonably profitable manner.
