

LAW ON ELECTRONIC COMMUNICATIONS

Podgorica, August 2008.

CHAPTER I GENERAL PROVISIONS

Article 1 (Objects of the Law)

This Law shall regulate activities in electronic communications, determine competences, status, financing and scope of activities of the Agency for Electronic Communications and Postal Services (hereinafter: the Agency) in the area of electronic communications, procedures for operators and electronic communication services providers, conditions for resolving disputes arising among participants in the market of electronic communications, define issues of providing universal service, procedures for efficient use of limited resources, define issues of protection of users of services, stipulate rights and duties regarding the issue of secrecy of electronic communications, regulate the field of surveillance and other issues in connection to electronic communications.

Article 2 (Exceptions)

(1) This Law shall not be applied:

- 1) to electronic communications networks, radio stations, equipment and radio frequencies which are installed and used exclusively for the purposes of defense of Montenegro and armed forces, police and security services in the field of international exchange of certain information.
- 2) to services of Information Society.

Article 3 (Meaning of Certain Expressions)

Expressions 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 connection to public electronic communication network,
2. **Number**, represents a number or a prefix, defined in the Recommendation E.164 of the International Telecommunications Union (ITU).
3. **Emergency numbers** are unique European phone number for emergency calls "112" and all other numbers, which are as such determined by the numbering plan.
4. **Assigning numeration and addresses** represents assigning of rights of use of numbers and/or series of numbers and/or addresses, without transfer of ownership over the numbers and/or series of numbers and/or addresses
5. **Electronic communications network** is a set of means enabling routing, switching and transmission between certain connecting points of a signal by wires, optical or other electromagnetic means, irrespective of the type of information being carried
6. **Electronic communication infrastructure** are set of elements serving for placing (construction objects, container, locker, antenna mast, cable canalization and similar) and support (electric power and water supplying, airconditioning systems, grounding, alarm annunciation, protection and similar) of electronic communication equipment.
7. **Electronic communications equipment** is equipment belonging to electronic communications networks which is used for providing services of electronic communications (machines, units, devices, terminal equipment, radio stations and other technical devices including the accompanying software).

8. **Electronic communications service** is a service completely or partly comprised of signal transmission through electronic communications networks.
9. **Electronic mail** is any message having the form of text, voice, sound or image sent over a public communications network that can be stored in the network or in the recipient's terminal equipment until the recipient collects it.
10. **Functional network/system** is an electronic communications network used by the owner, who is not an operator, for performing his activities.
11. **Interference** is presence of unwanted signals at the entry point of a receiver of a given electronic communication equipment, as a consequence of a broadcast, radiation, induction or combination of thereof by other electronic communication equipment. Existence of interference is exhibited by degradation of signal transmission quality.
12. **Interconnection (internetworks connection)** is a physical or logical connection of electronic communications networks, which enables users of one electronic communications network to communicate with users of other electronic communications networks, or access to services by other operators
13. **Applications Program Interface (API)** is software interface between applications, made available by broadcasters or service providers, in the enhanced digital television equipment for digital television and radio services
14. **Public electronic communications network** is an electronic communications network used wholly or mainly for the provision of public electronic communications services.
15. **Public telephone network** is an electronic communications network, used to provide publicly available telephone services and which enables voice and other communications
16. **Public electronic communications service** is a publicly available electronic communications service provided on market basis.
17. **Publicly available telephone service** is a service available to public which includes: initiating and receiving internal and international calls; providing mediators' assistance; directory and enquiry services; public pay phone services; access to emergency call services through numbers laid down for such services in the Numbering Plan.
18. **Public pay phone** is a publicly available phone, which is charged for use by instruments of payment such as coins or special electronic cards.
19. **User** of a service is a natural or legal person, using or requesting public communications services.
20. **End user** is a service user who does not provide public communications networks and does not provide public communications services.
21. **Non-geographic numbers** are numbers from the Numbering Plan that are not geographical numbers. (not connected to the geographical location)These can include the numbers of mobile services, free services, added value services, and similar.
22. **Numbering** are numbers, or parts of the whole number, which enable establishing electronic communications networks on a certain area or providing certain electronic communication services.
23. **Providing electronic communications network** is establishment, management, supervision or provision of availability of such a network.
24. **Limited resources** are the radio spectrum, national numbering plan and orbital positions.
25. **Operator** is a natural or legal person, who disposes of a public communications network or connected facilities, or provides public communications services.
26. **Operator access** means making equipment or services to other operator available under defined conditions, for the purpose of providing electronic communications services. It covers inter alia: access to network elements and associated facilities, which may involve the connection of equipment (in particular this includes access to the local loop and to facilities and services necessary to provide services over the local loop); access to physical infrastructure including buildings, ducts and masts; access to relevant software systems including operational support

systems; access to number portability or systems offering equivalent functionality; access to fixed and mobile networks, and access to conditional access systems for digital television services; access to virtual network services.

27. **Location data** is, according to this Law, any data, processed in electronic communications network, which shows geographic location of termination equipment and of a user of public communications service.
28. **Traffic data** is any data, processed for the purpose of transmission of communication in electronic communications network or for the billing thereof.
29. **Call** is a connection established by means of publicly available telephony service and allows for two-way communication in real time.
30. **Emergency calls** are calls towards emergency numbers, which are processed by the bodies, designated for receiving such calls in Montenegro, in the field of protection, rescue and assistance.
31. **Subscriber** is any natural person or legal entity that for the use of public communications service is a party to a contract with an operator of public communications services for the purpose of using those, or provision thereof by an operator.
32. **Broadcast** is unilateral radio-communications service that includes delivery, transfer and reception of audio, video and other signals intended for direct reception in open space, whether broadcast via transmitter on Earth or satellite.
33. **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.
34. **Radio frequency spectrum** is a range of radio frequencies determined by its edge frequencies.
35. **Radio station** is one or more transmitters or a combination of one or more transmitters or receivers, with one or more antennas and other devices, placed in one location, necessary for transmission of radio signal, with the exception of a receiver for direct reception of broadcast signals.
36. **Radio communications service** is an electronic communications service, provided by using radio frequencies.
37. **Conditional access system** is a system, for which access to protected broadcasting service in decoded form is conditioned by concluding subscriber agreement or by other form of prior individual authorization.
38. **Terminal equipment** is equipment that is directly or indirectly connected to a network termination point for the purpose of transmission or reception of messages.
39. **Universal Service** means a set of telecommunications services of specified quality, available at an affordable price to end users regardless of their geographic location on the territory of Montenegro and on accessible roads for the disabled persons and persons with special social needs.
40. **Value-added services** are public communications services, where the provider “adds value” by information to the user improving their form or contents or providing storage for the information or finding thereof.
41. **Wide-screen television service** means a service that consists wholly or mainly of programs produced and edited to be displayed on a wide-screen television. The 16:9 format is the reference format for wide-screen television services.

Article 4

Competences of the Government

(1) The Government of Montenegro (hereinafter: Government), in the field of electronic communications:

- 1) Adopts electronic communications sector strategy;
- 2) Adopts the radio frequency bands allocation plan;

- 3) Approves annual action plan and financial plan of the Agency;
- 4) Adopts yearly activity report by the Agency, including the financial report;
- 5) Periodically determines the minimum set of services included in universal service;
- 6) Determines conditions for utilizing networks for electronic communications in state of emergency;
- 7) Does other work, according to the Law.

(2) Strategy referred to in paragraph 1 item 1 of this Article particularly includes the following:

- 1) Vision,
- 2) General and concrete objectives,
- 3) Mechanisms for the objectives' achievement
- 4) Objectives achieving dynamics.

Article 5 (Competences of the Ministry)

The Ministry of transport, maritime affairs and telecommunications (hereinafter: Ministry) is authorized to:

- 1) Adopt bylaws in accordance with this Law;
- 2) Draft development strategy for this sector;
- 3) Perform activities that encourage development of electronic communications;
- 4) Act in coordination with the Agency within its competences provided by the law regulating the field of protecting competition;
- 5) Define limiting values of quality of service of "Universal Service", proposed by the Agency;
- 6) Stipulate criteria and methodology which the Agency shall conform to in the course of adopting enactments on tariffs and payment modes for operators of electronic communications networks and service providers, which, on the basis of general authorization perform activities and use limited resources;
- 7) Authorizes institutions which may conduct certification of electronic communication, radio and terminal equipment, according to regulations to be adopted based on this Law;
- 8) Coordinate activities with competent Ministries and Agency with regard to use of radio frequencies and electronic communications networks on issues of importance to security and defense;
- 9) Coordinate and conducts decisions by the Government that concern operation of electronic communications networks in state of emergency;
- 10) Participates in activities of expert bodies;
- 11) Carry out other tasks in accordance with this Law.

CHAPTER II **AGENCY FOR ELECTRONIC COMMUNICATIONS AND POSTAL SERVICES**

Article 6 (The Agency's Work Scope)

Conditions for efficient implementation and improvement of the policy defined in the field of electronic communications shall be provided by the Agency.

Article 7
(Status of the Agency)

- (1) The Agency shall have the status of a legal entity, with public competences, in accordance with the Law.
- (2) The Agency operates under the name of The Agency for Electronic Communications and Postal Services.
- (3) The seat of the Agency is in Podgorica
- (4) The Agency is entered in the Central Register of the Commercial Court.
- (5) The Agency is functionally independent of the legal and physical entities that provide electronic communications networks, equipment or services.
- (6) Activities of the Agency are public.
- (7) Statute of the Agency shall more closely define internal organization, competences and scope of activities of bodies and expert services of the Agency, adoption of enactments and other issues of importance to the activities of the Agency, defined in this Law and other laws that regulate the field of postal affairs.
- (8) Statute of the Agency shall be approved by the Government.

Article 8
(Responsibility of the Agency)

In the field of electronic communication the Agency:

- 1) Prepares expert foundation for drafting regulatory acts adopted by the Ministry according to this Law
- 2) Adopts procedures and norms for application of the Law and sub-laws
- 3) Prepares expert foundation for drafting regulations adopted by the Ministry according to this Law
- 4) Prepares expert foundation for preparation of the Plan of Frequency Allocation adopted by the Government, and is in charge of monitoring its implementation;
- 5) Adopts Plans on Numeration and Plans on Addressing and is in charge of monitoring its implementation
- 6) Adopts Plan of Frequency Assignment and is in charge of monitoring its implementation
- 7) Performs continuous monitoring of the radio-frequency band
- 8) Coordinates usage of radio-frequencies with the neighbouring countries' administrations
- 9) Stimulates efficient use of electronic communications infrastructure
- 10) Resolves questions and remarks and considers the initiatives and adopts procedures and norms from the field of protection of interests and rights of services users
- 11) Carries out public tender procedures and allocates usage of limited resources on undisrimatory basis (radio-frequencies, numeration i addresses) to electronic communications networks operators and electronic communications services providers
- 12) Issues approvals for frequencies, numeration and addresses
- 13) Keeps registers according to this Law
- 14) Defines, upon the the Government's consent, the amount of fees paid to the Agency by the operators of electronic communications networks and services providers, based on the Agency's actual costs and established criteria regulated by the Ministry
- 15) Resolves disputes arising among the participants at the electronic communications market, in cooperation with institutions in charge for protection of competition and users
- 16) Carries out legally regulated procedure for establishment of the Universal Service operator, tracks Universal Service development, administers and operates collection of fees paid by the other operators on that ground

- 17) Organizes and regularly updates electronic data base on the electronic communications sector, providing access to all information not regulatorily restricted regarding confidentiality.
- 18) Performs market surveillance, appoints operators with significant market power and takes protective measures on prevention of the negative effects of the operators' significant market power
- 19) Supervises work of the operators in the electronic communications sector regarding harmonization with the Law, sub-laws and valid technical regulations and standards.
- 20) Performs monitoring over fulfillment of commitments imposed to the operators of electronic communications networks and/or electronic communications services' providers in emergency cases,
- 21) Develops cooperation with regulatory authorities of the other countries within its competence or, given the consent of the Ministry, performs other types of activities in international organizations from the field of electronic communications.
- 22) Performs market and public opinion analyses, carries out open consultative procedures allowing all stakeholders comment the initiatives, measures, decisions and the acts prepared, proposed or adopted
- 23) Organizes professional conferences regarding certain issues from the field of electronic communications.
- 24) Prepares and submits to the Government for consent work program and financial plan for the next calendar year
- 25) Prepares and submits to the Government Annual Report including basic indicators of the dynamics of the electronic communications market development for the previous year including financial report.
- 26) Conducts other operations according to the Law.

Article 9
(Bodies of the Agency)

- (1) Bodies of the Agency shall be the Council of the Agency and the Executive Director of the Agency.
- (2) The Council of the Agency shall have the President, who shall be engaged as professional full-time employee of the Agency, and 4 members of the Council, who perform their function on part-time basis and may be engaged as professionals in the Agency. President of the Council shall organize the sessions and preside in the activities of the Council. In his absence, he shall be replaced by a member of the Council authorized by the Council at it's first session. Regular sessions shall be held at least once a month, and others as per need. Council shall be responsible to the Government.
- (3) Primary duties of the Council shall be the following: to adopt the Statute of the Agency, adopts procedures, norms and decisions based on regulatory rules , in conformity with this Law (on market power, tariffs, co-location, interconnection, provider of universal service and fees on the basis thereof, public tenders procedure, disputes among entities in the market and similar) adopt Activity Program and Financial Plan of the Agency; adopt Radio Frequency Assignment Plan, adopts Numbering Plans and Addressing Plans; submit the Annual Report to the Government including the financial report.
- (4) The Executive Director shall be engaged as professional full-time employee of the Agency. He shall represent the Agency, and be responsible for lawful performance of activities by the Agency, and manage business operations of professional services of the Agency. Executive Director shall be responsible to the Council of the Agency

Article 10
(Appointments to the Agency's Bodies)

- (1) After public announcement and upon the Minister's proposal, The President and members of the Council shall be appointed by the Government.
- (2) President of the Council and members of the Council shall be appointed to a term of office of 5 years. The first term of office of two members of the Council, shall be 5 years and of the other two members shall be 3 years. Candidates with better qualifications (length and type of work experience, special education, foreign language skills, etc) shall be appointed to term of office of 5 years.
- (3) The Executive Director shall be appointed by the Council, for a term of office of 4 years. The public recruitment procedure for selection of the Executive Director shall be conducted by the Committee appointed by the President of the Council
- (4) President of the Council, members of the Council and the Executive Director, shall not hold office for more than two consecutive terms.

Article 11
(Criteria for Selection of Agency Bodies)

- (1) President of the Council, members of the Council and the Executive Director shall hold Montenegrin citizenship and have permanent residence in Montenegro, and they shall, beside the general, fulfill also the following special criteria:
 - (1) higher education in the field of telecommunications, electronics, economy and law
 - (2) at least 5 years of experience, covering positions in the field of electronic communications.
- (2) President of the Council, members of the Council, Executive Director and members of their families may not hold equity or have other interests in any organization exploiting networks of electronic communications, provide services or equipment.
- (3) Persons from paragraph 1 of this Article may not be Members of Parliament or Deputies, officials or members of political parties' bodies.
- (4) The evidence of fulfillment of terms from paragraphs 2 of this Article shall be the statement by the candidate.

Article 12
(Dismissal of Agency Bodies)

- (1) Government shall dismiss the President or a member of the Council before the expiration of their term of office if they:
 - (1) request so in writing,
 - (2) are convicted of a crime, or an act making them discreditable for performing duties,
 - (3) violate provisions of the Law, incompetently or negligently perform duties,
 - (4) by their conduct damage the reputation and independence of the Agency,
 - (5) permanently lose ability to perform duties,
 - (6) act in violation of Article 11, paragraphs 2 and 3, of this Law.
- (2) Council shall dismiss the Executive Director before the expiration of his term of office, if any of the conditions from the paragraph 1 of this Article are met.

Article 13
(Financial Sources, Financial Plan and Program of Activities of the Agency)

- (1) Financial sources of the Agency shall be the following:
 - 1) registration fees;
 - 2) fees for performing activities of regulation and supervision of the market
 - 3) fees based on authorization for use of radio frequencies and numbering
 - 4) fees defined in the Laws regulating the field subject to the jurisdiction of the Agency.
- (2) Annual financial plan of the Agency contains projection of total revenues and expenses, including reserves for unforeseen expenditures, separated into categories according to the fields of regulation and market supervision, usage of numbering resources and radio frequency spectrum, and postal services
- (3) The Agency shall submit its financial plan along with the Activities Program, for the following year, to the Government the latest until November 1 of the current year. Financial Plan and Work Program of the Agency shall be submitted to the Parliament of Montenegro for adoption, until 1 of December of the current year at the latest, as a separate part of the Budget of Montenegro.
- (4) Financial plan, with Work Program shall be published in the way provided by the Statute of the Agency.

Article 14
(Accounting in the Agency)

- (1) The Agency shall keep separate accounting, per fields of jurisdiction, in accordance with the special Law
- (2) All settlements of the Agency's revenues and expenses shall be subject to annual audit by an independent authorized auditor, appointed by the Government.
- (3) Expenses of the audit shall be covered by the Agency.

Article 15
(Surplus and Lack of Funding)

If the annual calculation of the Agency's revenues and expenditures indicates that total revenues generated by the Agency are higher than total expenditures, the surplus shall be set aside on a separate account and may be used exclusively for fulfillment of legal obligations related to the Agency's function in the next calendar year.

Article 16
(The Agency's Activities Report)

- (1) The Agency shall prepare a report on activities and financial report for the previous year, the latest until the end of the second quarter of current year.
- (2) Reports referred to in the paragraph 1 of this article shall be adopted by the Council of the Agency provided consent of the Government.
- (3) Activities Report shall contain information on:
 1. dynamics of development of competition in the market of electronic communications and application of tariff policy principles,
 2. degree of universal service development, with an evaluation of user satisfaction with this service,
 3. assigned limited resources (radio frequencies and numbering), with an evaluation of efficiency of their utilization,

4. degree of development of electronic communications in Montenegro for the subject year, with an overview of capacity, type and quality of services provided by operators and services providers to end users.
 5. planned and completed tasks of the Agency for the subject year.
- (4) Financial Report contains financial indicators of business operations of the Agency. Audit of this report shall be performed by independent auditors.
 - (5) Activities Report of the Agency, finance report as well as report of the auditor shall be published on the website of the Agency.

Article 17
(Agency's Registry)

- (1) The Agency shall keep a Registry of the operators, approved radio-frequencies and assigned numeration and addresses.
- (2) Content and manner of keeping registries shall be prescribed by the Ministry.
- (3) Information in the Agency's Registry is stored for 5 years after termination of work of the operator providing public communication services, i.e. providing public communications network or functional communications network.

Article 18
(Collecting Information)

- (1) Any electronic communications network operator and service provider shall make all the information at their disposal, including financial, available to the Agency upon a written request in form and deadlines requested by the Agency, except the data referred to in articles 125, 126 and 127 of this Law.
- (2) Request of the Agency must be explained and proportionate to the purpose and expected effect.

Article 19
(Decisions by the Agency)

- (1) The Council of the Agency shall make decisions on rights and obligations of the operators providing electronic communications services and/or electronic communications network.
- (2) Procedure before the Agency shall be conducted by application of provisions of the Law that regulates general administrative procedure, unless it is otherwise stipulated by this Law.
- (3) Agency shall reach a Decision the latest in 3 months, from the day of the request submission.
- (4) Decisions of the Agency shall be taken by the Council, by majority votes of total number of members
- (5) Decision reached by the Agency, shall be made available to the public at the web site, with due regard to the conditions of protection of business secrets. Parties in the procedure shall be supplied with the full report on the reasons on which the aforementioned enactment is based
- (6) A complaint may be lodged against the Decision of the Agency, before the Ministry within 15 days as of the day of Decision receipt

- (7) Complaint lodged against the Agency's decision does not delay its execution.
- (8) A law suit against the Ministry's decision may be submitted to the competent court.

Article 20
(Possibility of Mediation in Disputes)

- (1) In case of a dispute arising among operators providing electronic communications networks or services, the operators can agree in written form or the Agency suggests for the dispute to be settled by applying the rules for mediating or arbitrary procedures, if they would contribute to a better and a more timely resolution of such a dispute, in accordance with objectives of efficient competition, market development and protections of users' interests.
- (2) If the Agency suggested mechanisms of mediation, it shall be obliged to immediately notify parties to the dispute thereof .

Article 21
(Cooperation with Other Competent Bodies)

- (1) The Agency shall supply the Ministry with any required data, information and technical assistance, should the Ministry require these for execution of duties stipulated by this Law, within the deadline defined by the Ministry..
- (2) The Agency shall supply the information and data in due course to the regulatory body for broadcast program contents, at the request thereof, which are necessary for performing regulatory function in this field (monitoring TV programs, data on available broadcasting frequencies, etc.) within the deadline defined by the regulatory body in charge of program content, which can not be less than 7 days.

CHAPTER III
ELECTRONIC COMMUNICATIONS NETWORKS

Article 22
(Provision of Electronic Communications Networks and Services)

Any legal entity or natural person may construct, provide and use electronic communications networks and equipment with associated infrastructure, under the conditions pursuant to this Law, regulations adopted based on it and the other regulations if, in doing so, it is not contrary to the public order, human life and health, public and national security

Article 23
(Public Interest)

Construction, maintenance, development and utilization of electronic communications networks, and equipment with associated infrastructure, as well as provision of electronic communication services and management and use of radio frequency spectrum, numeration and addresses shall be the activities of public interest for Montenegro.

Article 24
(Construction)

- (1) Construction of electronic communications networks, with matched infrastructure shall be conducted in accordance with the law and regulations regulating the field of construction, unless it is not opposite to this Law.
- (2) Construction and use of electronic communication networks and equipment and providing of electronic communication services must be performed in a way providing complete supervision and regulatory control by supervision bodies determined by this Law and the law regulating construction of facilities.

Article 25
(Technical Conditions for Connection to Public Electronic Communications networks)

- (1) Electronic communications network and terminal equipment intended for connection to public electronic communications network, shall meet the technical conditions that enable free selection of operators and terminal equipment, safety of use, integrity of public electronic communications networks and interoperability of public electronic communications services.
- (2) Conditions referred to in paragraph 1 of this Article shall be specified by the Ministry.

Article 26
(Household Installations and Joint Systems)

- (1) In the course of construction of apartment and office buildings, intended for sale or joint use, the investor thereof shall supply subscriber communication cables, cables for cable distribution and joint antenna system, which are necessary exclusively for that building, in accordance with the project documentation
- (2) Cables and systems from paragraph 1 of this Article including the remaining elements of electronic

communications network shall be constructed in the way that enables easy approach, replacement, upgrading, and utilization not conditioned by regime of use by individual users or service providers.

- (3) Investor from paragraph 1 of this Article is obliged, to construct appropriate connections on public electronic communications networks.
- (4) Obligations of investors referred to in paragraph 1,2 and 3 of this article shall be prescribed by the Agency.

Article 27

(Adjustment of Use of Public Electronic Communications services)

- (1) The owner or the authorized user of apartment or office building, in his part of the building or space may adjust the way of utilization of public electronic communications services due to his needs, in such a way that does not have an effect inside and outside of that area, in accordance with the Law.
- (2) Manner and scope of adjustment from paragraph 1 of this Article in buildings or spaces intended for public use shall be prescribed by the Ministry.

Article 28

(Activities in the Zone of Telecommunications Facilities)

- (1) In the zone of facilities, equipment or routes at which elements of electronic communication networks or radio corridors no construction works, construction of new buildings, planting seedlings or conducting any other activities that may damage electronic communication network components or interfere with the operation thereof, shall be permitted.
- (2) In the course of construction and placement of electronic communication networks and equipment on the land and at the buildings not owned by operators, the operators shall be obliged to implement due measures of protection of its equipment and facilities from damages that could occur through regular use of pertinent land or buildings.
- (3) In the protective zone or radio corridors of radio station, no construction works, construction of new buildings, installing technical equipment or conducting any other activities that may obstruct propagation of electromagnetic waves or cause interference to radio communications, shall be permitted.
- (4) The expenses regarding taking measures and obtaining consent referred to in paragraph 2 of this article shall be borne by the investor or works performer.
- (5) Ministry, provided consent of the Ministry in charge of spatial planning, shall, according to regulations governing spatial planning and construction of facilities, pass the regulation, which will determine elements of electronic communication networks and matched infrastructure, width of protective zones and types of radio corridors in which area no construction of other object is allowed in the meaning of the paragraph 1 of this Article.

Article 29

(Relocation and Protection of Existing Public Communications Networks)

- (1) An operator intending to build public electronic communications network may, in the course of establishing rights to use immovable property if it is necessary request relocation, change or expansion of other existing buildings and assets
- (2) Expenses of relocation, change or expansion of buildings and assets shall be fully compensated by the requesting party.
- (3) In cases when, for purposes of construction of communal buildings and other public buildings, and installations, it is required to relocate or protect existing electronic communications network or associated infrastructure, the investor of construction works intended shall have the duty to inform the owner of public communications network or associated infrastructure at least 30 days prior to scheduled commencement of the construction works and to provide access to them for purposes of supervision of those construction works.
- (4) Interested Parties may define rights and obligations by means of contract during reallocation and protection of its facilities.

Article 30

(Construction in the Roads)

- (1) The investor shall be obliged to submit a notification to the Agency, no later than 30 days prior to initiating construction of a road, which shall contain the beginning and end date of construction works and the route of the road.
- (2) The Agency shall be obliged to publish the information from paragraph 1 of this article on its web site.
- (3) The investor from paragraph (1) of this article, upon a request from an operator of electronic communications networks, shall negotiate on non-discriminatory basis and in good faith on the options and conditions of building electronic communication objects and infrastructure in the area of the road.
- (4) Activities in the area of telecommunications facilities and relocation and protection of the existing public communications networks referred to in articles 28 and 29 of this Law, as well as construction in the area of roads referred to in this article cannot be undertaken without the Agency's consent, which is obliged to obtain the opinion of the bodies responsible for safety and defense prior to issuance of consent.

PUBLIC ELECTRONIC COMMUNICATION NETWORKS

Article 31 (Application)

- (1) Operator can be physical person or legal entity which disposes of public communications network or related possibilities, i.e. person providing public communications services and which is registered for providing telecommunications services.
- (2) Before beginning, ending or change of the regime of usage of the public electronic communication network or providing public electronic communications services, it is necessary to submit a written application to the Agency.

- (3) Operator will start with work or will change regime for usage of public electronic communication networks and/or services after submission of application referred to in paragraph 2 of this article.
- (4) The application referred to in paragraph 2 of this article contains data needed by the Agency for signing in, deleting or updating of the Official Register, as follows:
- (1) name, identification number, address, for physical persons;
 - (2) name of the business society, headquarters, tax and registry number, representative authorization, for legal entities;
 - (3) short description of public communication networks, i.e. communication services, which describes characteristic physical skills of network and equipment, their influence on environment, functioning and providing services;
 - (4) planned beginning date, changes or expiring of procuring or providing public communication networks and services.
- (5) The Agency shall register the operator by making an entry in the official registry within 7 days of the receipt of the application containing all required information and evidence from paragraph 4 of this Article, with a written confirmation of the registration made.
- (6) The Agency shall, within 7 days from the day of receipt of an application that does not contain all necessary information and evidence from paragraph 4 of this Article, inform an operator to supplement the application within a period that shall not be shorter than 8 days.
- (7) Regarding the change of data from the paragraph 4, subparagraphs 1 and 2, of this article, operator shall inform Agency 30 days from the day they have been made. Regarding the change of data from subparagraphs 3 and 4, paragraph 4, of this article, operator shall inform Agency at least 15 days before the envisaged date.
- (8) If the Agency does not act upon the application from the paragraph 2 of this article in time proscribed by paragraphs 5 and 6 of this article, its signing into Official Register shall be considered as such.
- (9) Holders of functional networks systems that have connections to public communications networks, shall be obliged to, upon a request from the Agency or other competent bodies, submit an Application which specifically contains methods of connection to public network, network configuration and a description of possibilities of use of functional network and equipment in a state of emergency.

Article 32

Remuneration based on the application

- (1) When submitting for the first time the application from the Article 31 of this Law the Agency shall be paid one-off registration fee, which corresponds to costs of entering the Registry of Operators.
- (2) The amount of the fee referred to in paragraph 1 of this article shall be determined by the Agency with consent from the Ministry.
- (3) Based on the application from the Article 31, public electronic communications networks and/or services operators shall pay to the Agency regular annual fee for costs of regulation and supervision of the market in the electronic communications sector.
- (4) The fee from paragraph 3 of this article shall not comprise costs that Agency have in conducting the Law provisions referring to use of limited resources- frequencies, numbers, and addresses.
- (5) The payment amount from the paragraph 3 of this article is determined as up to 1,5% of the total annual revenue of an operator generated in the previous year in the extent which covers regulation expenses and market supervision in the sector of electronic communications foreseen by the Financial Plan.
- (6) Operator shall, within 60 days, from the adoption of the Agency's Financial Plan, pay the amount from the paragraph 3 of this article;
- (7) Operator shall be obliged in every calendar year, no later than by the end of the sixth month of the current year to inform the Agency on the amount of revenue from the previous year. If an operator does

not do so until the deadline specified, the Agency shall consider the revenue to be the total revenue from the previous year based on the information from the Public Revenues authority of Montenegro.

(8) If the Agency has reasonable doubt concerning the truthfulness of the information submitted by an operator, it may authorize an auditor, selected by the Agency, to perform an inspection. If the estimated revenue deviates for more than 3 % from the reported revenue, the Agency shall, in calculation, take into account the estimated revenue, and costs of the audit shall be covered by the operator.

CHAPTER IV

GENERAL OBLIGATIONS OF OPERATORS

Article 33

(Joint Use of Electronic Communication Infrastructure)

- (1) For purposes of rational use of space, protection of the environment or public health, public security or the urban planning, construction of objects and infrastructure of public operators, shall be conducted in the manner as to enable, to the maximum possible extent, availability of quality joint use of electronic communication infrastructure. Operators shall, when constructing and utilizing communications networks, undertake all measures that enable access and quality joint use of electronic communications infrastructure.
- (2) Operators of public communications networks shall be obliged to negotiate with other operators of public communications networks, for the joint use of electronic communications infrastructure, if such use is technically feasible and does not cause harmful interference. The operator is obliged to respond within 15 days as of the day of requests on negotiations on joint use of subject infrastructure submitting.
- (3) The Agency shall encourage specifying joint use from paragraph (1) of this Article, by means of an agreement
- (4) An operator shall, upon a request from the Agency, at least once in three months, submit updated information on its capacities that are of an interest for joint use of subject infrastructure.
- (5) The Agency shall prescribe the amount and methods for submitting the data referred to in paragraph 4 of this article..
- (6) When an operator of public communications networks is denied access to electronic communication infrastructure or an agreement on joint use is not reached, the Agency shall resolve the subject of the dispute in question upon the request from one of the parties, in accordance with this Law.
- (7) In special cases when joint use is necessary due to reasons of environment protection, health protection, safety, urban planning or rational land use, and if public operators do not come to an agreement on joint use of electronic communications infrastructure the Agency shall define rules and conditions of joint use.
- (8) The Agency shall not decide on joint use from paragraph 7 of this article if such use would affect actual rights of a third person, unless an operator initiated the procedure of expropriation or establishing the right of use
- (9) Prior to issuing a decision on joint use from paragraph 7 of this Article, the Agency shall implement the procedure of a public debate.
- (10) Agency shall resolve the dispute from the paragraph 6 of this article within 30 days from the day of request submitting, and dispute from the paragraph 7 of this article, within 60 days from the day of request submitting.

Article 34

(Negotiating on Interconnection and Operator Access)

(1) Operators shall have the right and duty to negotiate on operator access and interconnection and to announce accurate data interested for negotiation performing

(2) Operator is obliged to answer on the request for interconnection or operator access within 15 days as of the day of request submission

(3) The operators shall resolve technical and commercial issues regarding interconnection and operator access by means of written contract which shall be in accordance this Law and shall contain the following:

- 1) the subject of the contract;
- 2) the services to be provided, and the quality and time limits agreed upon;
- 3) commercial terms;
- 4) the maintenance of the operability of networks;
- 5) the interoperability of services;
- 6) termination or the expiry of contracts concluded for a fixed period, and the notice period for contracts concluded for an indefinite period;
- 7) the procedure for meeting the requirements of data protection in the course of provision of services;
- 8) the sanctions in connection with any unobservance of the contract;
- 9) the method of assuming responsibility for services provided to third parties

(4) Parties therein shall be obliged to protect the confidentiality of any information they exchanged in the course of concluding the contract referred to in paragraph 3 of this article. This information shall not be used for any other purpose.

(5) Contracting parties shall be obliged to submit one copy of the interconnection and operator access contract concluded with the operators in Montenegro or with the operators from other countries to the Agency for the purpose of filing and assessment of conformity with the Law.

(6) Agency shall prescribe conditions under which operator may limit interconnection or operator access.

(7) If the agreement on interconnection or operator access can not be reached, the Agency shall resolve the dispute, upon a request from one of the parties thereto, within 30 days, regulating only such issues on which agreement could not have been reached by the parties involved.

Article 35 (Use of Functional Networks)

(1) If legal entities performing business activities that are not exclusively in the field of electronic communications intend to use own functional networks for provision of public electronic communications services, they shall be obliged to submit a Notification as specified in the Article 31 of this Law to the Agency.

(2) Legal entities referred to in paragraph 1 of this Article shall be obliged to establish an independent legal entity for provision of public communications networks or services or to keep separate accounting for activities in relation to provision of public communications services.

Article 36 (Distribution of Digital Radio and Television Programs and Services)

- (1) Public communications networks intended for distribution of digital television services to the wide screen receivers shall be planned so as to support the distribution of wide-screen television services and programs.
- (2) Operator providing public communications networks serving for distribution of digital TV programs to the wide screen TV receivers shall be obliged to preserve the format of wide-screen television services or programs in redistribution thereof.
- (3) Operator referring to paragraph 2 of this Article shall be obliged to ensure access to application program interfaces (API) or electronic program guides (EPG) under fair and non-discriminatory conditions
- (4) The Ministry shall, in accordance with international standards, prescribe the conditions for interoperability of digital radio and television user equipment.

Article 37
(Conditional Access Systems)

- (1) Conditional access systems to services of digital television or radio services shall have such technical facilities to allow the possibility for full control, by the operators of public communication network over services provided.
- (2) Operators of conditional access services, providing access to digital television and radio services that broadcasters of particular programs depend on, shall be obliged to offer to the broadcasters under non-discriminatory conditions, technical services enabling their subscribers to have access to services by those broadcasters by using decoders.
- (3) Operators of conditional access services shall be obliged to keep separate accounting for the provision of conditional access services.

Article 38
(Mandatory Transmission of Program Contents)

- (1) In case a network used for distribution of signal of radio and television program, represents a dominant method of reception of such programs in a particular area of the service, the Agency, upon a request from the Regulatory Body for Program Contents, shall assign an obligation on an operator to broadcast particular programs or contents.
- (2) The amount and type of programs and contents referred to in paragraph 1 of this article shall be determined by the Regulatory Body for Program Contents.

Article 39
(Compliance with Media Legislation)

- (1) Operators of networks performing broadcast and distribution of radio and television programs shall undertake, within their possibilities, measures for prevention of broadcast of illegal programs and other contents and apply measures stipulated by the media and program content laws and regulation.

CHAPTER V
ENSURING COMPETITION

Article 40
(Operators with Significant Market Power)

- (1) For the purposes of ensuring competition and preventing harmful effects of lack of competition, the Agency shall analyze the market of electronic communications in cooperation with the body in charge of competition protection.
- (2) For purposes of ensuring competition in the market of electronic communications, it shall be considered that one operator has Significant Market Power, according to this Law, if individually or together with other operators on a particular relevant market, it possesses economic influence which enables it to have a larger degree of independence in comparison to its competition and users.
- (3) If two or more operators operate in a market structure for which it is estimated to enabling for coordinated actions, they shall be treated as operators in joint domination in relation to conditions from paragraph 1 of this Article, even in cases of lack of structural or other connections among such operators.
- (4) If based on the analysis of a relevant market, the Agency establishes that efficient competition exists in a given market, it shall not identify any operator as an operator with Significant Market Power.
- (5) Operator with Significant Market Power in a relevant market may be considered to have Significant Market Power in another connected market, if connecting these markets enables market power to be transferred from one market to the other and thereby increase market power of an operator.
- (6) While assessing whether an operator has Significant Market Power in accordance with paragraph 1 of this Article, the Agency shall specifically take into consideration the following criteria:
 - (1) market share of a telecommunications operator in a relevant market and change in structure over a longer period of time;
 - (2) barriers to entry into a relevant market and effect of potential competition in that market;
 - (3) influence of large users to the power of an operator (countervailing purchasing power);
 - (4) elasticity of demand;
 - (5) current conditions regarding competition in a relevant market;
 - (6) technological advantages and superiority;
 - (7) level of development of sales and distribution network;
 - (8) the degree of vertical integration;
 - (9) the degree of service differentiation;
 - (10) privileged access to financial markets or financial resources;
 - (11) whether it controls infrastructure, which can not be easily doubled in volume;
 - (12) connection of services
- (7) When assessing whether two or more operators jointly possess significant market power in accordance with paragraph 2 of this Article, the Agency shall take into account the following criteria:
 - (1) the level of concentration of the relevant market, distribution of market shares in the relevant market and their variation over longer period of time;
 - (2) barriers to entry into a relevant market and effect of potential competition on that market;
 - (3) influence of large users on the operators' power (countervailing purchase power)
 - (4) transparency of the relevant market;
 - (5) homogeneity of services
 - (6) elasticity of demand;
 - (7) the level of technical innovations and development of technology;

- (8) the existence of available (unused) assets;
- (9) the existence of informal or other links between the operators;
- (10) retaliatory mechanisms employed by the operators regarding compensation measures;
- (11) existence of price competition.

(8) In assessing significant market power and applying the criteria of this Article, the Agency shall cooperate with the body competent for protection of competition taking international practice into account.

Article 41 (Identification of Relevant Markets)

- (1) In cooperation with a body in charge of protection of competition, the Agency shall monitor, identify and review relevant services and relevant geographic markets in Montenegro in the field of electronic communications.
- (2) In the course of identifying the market referred to in paragraph 1 of this Article, European Union practice shall be taken into consideration. Before issuing relevant act by which relevant services and geographical markets will be designated, the Agency shall organize public debate.
- (3) In case of existence of international contracts and obligations of Montenegro in this field, the Agency may determine trans-national relevant markets.

Article 42 (Relevant Markets Analysis)

- (1) The Agency shall be obliged to analyze markets in cooperation with the body responsible for protection of competition, or independently according to this Law, for the purpose of identification of anti-competitive behaviour.
- (2) Analysis of trans-national markets shall be conducted by the Agency in cooperation with competent regulatory bodies of those countries.

Article 43 (Identification of Operators with Significant Market Power and imposing Obligations)

- (1) If, on the basis of an analysis of a relevant market, the Agency finds that the market lacks sufficient competition it shall identify an operator or operators with significant market power in that market by means of a Decision. Before issuing this Decision, the Agency may request an opinion from the body responsible for the protection of competition.
- (2) By the Decision issued to the SMP operator, the Agency must impose at least one of the measures from Articles 44, 45, 46, 47, 48, 49 and 50 of this Law. When determining these obligations the Agency shall take into account the principle of rationality and proportionality, in conjunction with an explanation of measures imposed. The Decision shall contain also realistic deadlines in which certain measures must be implemented.
- (3) On the occasion of repeated identification of an operator as an operator with Significant Market Power, based on the analysis conducted according to the Article 42, paragraph 1 of this Law, the Agency may change the scope of imposed obligations.

- (4) If, during a periodic analysis, it is determined that an operator no longer possesses Significant Market Power, the Decision from, paragraph 1 of this article shall be revoked.
- (5) If on the basis of the analysis of a relevant market, the Agency finds that there is sufficient competition in that market, it shall not identify any operator as an operator with significant market power. If this market was non-competitive before, the Agency shall be obliged to revoke decisions identifying the operators with significant market power, including the measures imposed by those decisions, by the means of a new decision.
- (6) The Agency shall decide on obligations of operators with Significant Market Power on international markets jointly with other competent international bodies which are encompassed by that international market.
- (7) Any measure based on this Article, the Agency may conduct only based on previously held public debate with the operators, users and other stakeholders, in cooperation with relevant national or foreign body for protection of competition.

Article 44

(Obligation of Ensuring Transparency, Reference Interconnection Offer)

- (1) By means of a Decision from the Article 43, paragraph 1 of this Law, the Agency may impose an obligation of taking measures for the purpose of making information on providing services of interconnection or operator access available to the public, like accounting information, technical specifications, network characteristics, terms of use and prices of services. The Decision defines in more details the degree of information required, methods and deadlines for their publication, taking into consideration data confidentiality.
- (2) If the measure from the Article 45 of this Law, apart from the obligation defined in the paragraph 1 of this article, is imposed to an operator, the Agency may request the operator to publish the reference interconnection offer for providing services of interconnection or operator access, (here and after referred as: RIO), within 90 days from the day the Decision has been issued.
- (3) RIO shall be in line with actual capacities of an operator and real needs of other operators, and sufficiently unbundled in order for other operators that require a specific service not needing to pay for bundled options which are not needed for providing requested service. This offer shall contain the list of services unbundled in accordance with needs of other operators, and conditions thereof, including the prices and discounts or principles for establishing prices.
- (4) In case of a fixed network operator, offer described in the paragraph 2 of this Article must also contain a section for unbundled components of services of access via local access network, including usage of associated infrastructure elements
- (5) If an offer from paragraphs (2) of this Article is not in compliance with the provisions of this Law or market conditions, upon a public debate, the Agency shall have the right to order by a Decision amending of the offer within 30 days. The Decision may also include the minimal list of offered elements.
- (6) Operators may change of RIO on their own initiative.

Article 45
(Obligation of Providing Equal Treatment – Non-Discrimination)

- (1) The Agency, by means of a Decision from Article 43 paragraph 1 of this Law, may order a measure of providing service of equal treatment in relation to interconnection or operator access.
- (2) The imposition of the measure related to providing equal treatment shall ensure that the operator referred to in paragraph 1 of this article applies essentially equivalent conditions and equal quality for providing service of interconnection or operator access to any operators providing essentially equivalent services, including those operators that are its subsidiaries or companies connected to them.
- (3) The Agency may order a measure of making certain parts of valid contracts on interconnection or operator access, taking into consideration data confidentiality, by Decision from Article 43 paragraph 1 of this Law.

Article 46
(Obligation of Account Separation)

- (1) The Agency may, by means of a Decision from Article 43 paragraph 1 of this Law, impose taking measure for the purpose of keeping separate accounting records related to providing services of interconnection or operator access.
- (2) The measure defined in paragraph 1 of this article, the Agency shall impose for the purposes of controlling fulfillment of measures from Article 45 of this Law or preventing unsubstantiated cross-subsvention. This measure shall be ordered by the Agency in particular to a vertically integrated operator, and in doing so, may request the operator to provide transparency of its wholesale or internal accounting prices. The Agency may determine the form and methodology of accounting.
- (3) An operator from paragraph 1 of this article shall submit accounting records, pursuant to a request from the Agency, including information on revenues acquired from third persons
- (4) For the purposes of fostering competition and open market, the Agency may publish information collected on the basis of the obligations from this Article, taking into consideration the degree of confidentiality of information received.

Article 47
(Obligation of Providing Access to Network Elements and Their Usage)

- (1) By means of a Decision from Article 43 paragraph 1 of this Law, the Agency may order taking a measure in order to meet all reasonable requests for access to, and use of, specific electronic communications network elements and associated infrastructure, including the access network. The Agency shall order such a measure particularly in cases where 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.
- (2) The Agency may require an operator referred to in paragraph 1 of this Article, among others, to:
 - (1) negotiate in good faith with operators on requests of operator access;
 - (2) enable operator access to specified network elements, including unbundled elements of access network;
 - (3) interconnect networks;

- (4) not withdraw already granted operator access or use of facilities;
 - (5) provide specified possibilities on a wholesale basis for resale on the retail market;
 - (6) grant open access to technical interfaces, protocols or other important technologies that are indispensable for the interoperability of services or networks, including virtual networks also;
 - (7) provide joint use (co-location) on the same location or other forms of sharing possibilities of infrastructure ;
 - (8) provide specified services required for ensuring interoperability of end-to-end services to users, including facilities for intelligent network services, distribution systems or roaming in mobile networks;
 - (9) provide access to support systems or similar systems, needed for ensuring fair competition in the course of providing services
- (3) When assessing the scope of obligations from paragraph 1 of this Article, and in particular, when assessing whether the ordered measures are proportionate to desired effects, the Agency shall in particular evaluate:
- (1) the technical and commercial viability of use or installation of new competitive equipment with regard to the nature and type of interconnection or access proposed and the dynamic of market and technology development;
 - (2) feasibility of providing the access proposed, in relation to the capacities available;
 - (3) initial investment by an operator from paragraph 1 of this Article, and the risks involved with such investment;
 - (4) the need to safeguard competition in the long term;
 - (5) appropriate intellectual property rights;
 - (6) providing services deriving from international obligations of Montenegro.
- (4) The Agency may regulate specific issues of this Article in greater detail.

Article 48
(Price Control and Cost Accounting Obligations)

- (1) The Agency may order, by means of a Decision from Article 43 paragraph 1 of this Law, taking measures in relation to cost covering and price control of certain services that are provided for the purposes of providing interconnection or operator access.
- (2) The Agency may order taking measures from paragraph 1 of this article, if it, based on market analysis, 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.
- (3) In ordering measures from paragraph 1 of this Article, the Agency must take into account the risks, investments and ensuring an acceptable rate of the investments return of operator referred to in paragraph 1 of this article.
- (4) An operator ordered to take measures of cost orientation shall provide evidence that prices are calculated based on expenses with a acceptable rate of investment return. While controlling fulfillment of such obligation, the Agency may apply the methods of cost based accounting independent from those applied by the operator. The Agency may request an operator by a Decision, to provide explanation and as per need, alter its prices. The operator shall bear the burden of proof.

- (5) The Agency may prescribe a cost covering mechanism or methodology of pricing on the grounds of this Article, which shall be compatible for the purpose of improving efficiency and sustainable competition, the objectives of developing and improving the benefits for consumers. The Agency may use comparison of prices from comparable markets or markets with developed competition, bearing in mind the specifics of local market.
- (6) For reasons of fulfillment of obligations, an operator from paragraph 1 of this Article shall implement of a cost accounting system determined by the Agency by a Decision. The Agency may determine the form and methodology of accounting which shall be applied by such an operator, including categorization and classification of costs and rules applied to costs' distribution. An independent auditor shall verify the compliance of the accounting based on this Article. Statement concerning the compliance shall be published annually by the Agency on its web site.

Article 49
(Obligation of Carrier Selection/Pre-Selection)

- (1) The Agency shall order an obligation to an operator of a fixed and mobile telephony network, by means of a Decision from Article 43 paragraph 1 of this article, of providing its subscribers with access to services of all other operators of publicly available phone services, specifically the following:
 - 1) by selection of any operator whenever dialing by using a prefix for that operator, or
 - 2) by pre-selection of a specific operator, based on the service code, which shall not limit the option from paragraph 1 of this Article.
- (2) Obligation referred to in Article 43 paragraph 1 of this Law can be imposed to an operator by, the Agency's Decision. Costs related to establishment of carrier selection/preselection service shall be beared by an operator.
- (3) Operator shall be obliged to set cost-oriented prices for operator access and interconnection with regard to operator selection and pre-selection service.
- (4) Operator may charge subscribers only a one-off sum which covers the actual costs of provision of conditions required for providing carrier pre-selection.
- (5) Operator shall be obliged to submit to the Agency cost-oriented prices for operator's access and interconnection related to carrier selection and preselection, for filing and conformity assessment purposes.
- (6) According to the accepted model of electronic communication services prices' establishment, the Agency may prescribe limit for prices of carrier selection/preselection service, to the extent that enables service prices remain stimulating for the users.

Article 50
(Obligation related to Regulation of Retail Services Prices)

- (1) By means of a Decision from Article 43 paragraph 1 of this Law, the Agency may order taking measures connected with regulation of retail services on an operator, if, on the basis of market analyses, determines it that relevant market of services intended for end users is not competitive enough.
- (2) Measure from paragraph 1 of this article shall be ordered only if it is assessed that by imposing all available measures based on Articles 44,45,46,47,48 and 49 of this Law, the desired targets would not be accomplished, or if the already ordered measures did not achieve desirable goals. Should this be the case, the Agency shall reconsider the efficiency of its retaining.
- (3) The measures ordered from paragraph 1 of this article may include prohibitions of:

- 1) Calculating excessive prices,
 - 2) Obstruction of entry into market,
 - 3) Restriction of competition by setting excessively high or low prices,
 - 4) Giving undue advantages to a particular end user,
 - 5) Unreasonable bundling of particular services.
- (4) When defining measures from this article, the Agency may prescribe one of the following methods of services' prices determination:
- 1) Retail price capping (*Price cap regime*) ,
 - 2) Individual tariffs regulation method,
 - 3) Method of cost-oriented prices,
 - 4) Harmonization of prices according with prices on comparable markets
- (5) When regulating the measures from this Article, provisions of the Article 48, paragraphs 3, 4, 5 and 6 of this Law shall be applied.

Article 51
(Obligation to Provide Minimum Set of Leased Lines)

- (1) The Ministry shall determine and reassess every two years, conditions and manner of use of minimum set of leased lines which shall be required to provide to users on the whole territory of Montenegro, in accordance international methodology and practice, market and development needs, technological progress and objective abilities of operator.
- (2) In the event that the Agency determines, based on market analysis pursuant to the Article 42 of this Law establishes, that there is no effective competition in provision of the minimum set of leased lines, it shall order on an operator with significant market power, by means of a Decision from the Article 43 paragraph 1 of this Law, the obligation to provide the full minimum set of leased lines or only part thereof if it is assessed that it would be efficient that the rest of the set of leased lines is provided by other operators.

CHAPTER VI

– UNIVERSAL SERVICE

Article 52
(Definition and Scope)

- (1) Universal Service shall represent group of telecommunications services of a specified quality, provided for at an affordable price to all end users, regardless of their geographic position on the territory of Montenegro.
- (2) Affordability of prices of Universal Service is provided by creating technical possibilities for users to monitor and control their spending, or through special tariff regimes for users with low incomes.
- (3) Regardless of the level of the electronic communications services market development, Montenegro shall guarantee the possibility to use Universal Service
- (4) The scope of Universal Service shall include services related to:
 - 1) Fulfillment of any reasonable request by a user for connection to public phone network on a fixed location, which enables usage of publicly available phone services;

- 2) Providing ability to user to make local, intercity and international calls, transfer of communications via telefax and data transfer by speed suitable for functional internet access;
 - 3) Providing the service of universal phone directory and universal service for providing information on subscribers (hereinafter: universal directory enquiry service)
 - 4) Providing public telephone booths services, provided fulfilment of reasonable end users' needs regarding geographical coverage and providing free emergency calls
 - 5) Ensuring certain favourableness for disabled end-users enabling them adequate access to publically available telephony eservices and its use including access to services for emergency calls, public pay phones, directory and directory enquiry service.
- 5) Scope and type of subject favourableness and measures from paragraph 4, item 5 of this Article, is determined by the Ministry with consent of the ministry in charge of social affairs.
- 6) Criteria for assesment of sanity of requests and needs from point 1 and point 4 of paragraph 4 of this Article, shall be prescribed by the Agency
- 7) Agency shall monitor development of US and suggest to the Ministry correction of the scope of US, from the paragraph 4 of this Article.
- 8) The Government, based on Ministry proposal, may correct scope of services of US, in intervals not shorter than two years

Article 53
(Universal Directory and Universal Directory Enquiry Services)

- (1) The Universal Directory shall include the information from the Article 120 of this Law, on all subscribers of publicly available phone services, who did not request prohibition of data publishing. Universal Directory is published in print and electronic form, with prior approval from the Agency on appropriateness of its form. For publishing the data in Universal Directory the Universal Directory operator shall not be charging the service of publishing the data on users and vice versa.
- (2) Universal Directory Enquiry Service, shall provide information on all subscribers included in Universal Directory which is accessible to all end users including users of public pay phones.
- (3) The information from the Universal Directory shall be updated on regular basis or at least once per year, taking into consideration the way of its publication. Information given by the Universal Directory Enquiry Service shall be updated at least once in 60 days. Universal service operator which provides the Universal Directory and Universal Directory Enquiry Service shall immediately inform the Agency, if another operator of publicly available telephony services does not supply them with information from paragraph 1 of this Article within 30 days from the day of expiration of the last update deadline.
- (4) In case a joint database of user information exists, the operator of this database shall make the information from such a database available to the Universal directory operator, to the extent proportionate to the requirements of the directory.
- (5) Universal service operator providing Universal Directory and Universal Directory Enquiry Service, shall process information received from different operators of publicly available telephone network on equal basis.

Article 54
(Providing Universal Service - Determining Provider)

- (1) The Agency shall, by means of a decision, determine one or more operators of Universal Service, for the period of 5 years so as to ensure provision of Universal Service within the complete territory of Montenegro.
- (2) The Agency shall determine Universal Service operator by means of a public tender, In the event the public tender fails, the Agency shall, by means of a decision, determine that operator which in provision of publicly available telephony services in fixed locations has Significant Market Power or the largest number of subscriber in fixed locations, respecting principles of efficiency, objectivity, transparency.
- (3) Subject of the public tender from paragraph 2 of this Article shall provision of one or more different services included in the universal service, in a particular area or on the complete territory of Montenegro.
- (4) Criteria for selection of an operator based on the tender referred to in paragraph (2) of this Article shall be in particular: capacities for provision of universal service or its portions in a particular area, costs of providing the service, price of the service and technological capacities of the network in the sense of planned expansion of volume and quality of Universal Service.
- (5) The Agency shall be obliged six months prior to expiration of the decision referred to in paragraph (1) of this Article, based on the information on provision of Universal Service and public debate conducted, to determine whether the quality of services is such that it requires repetition of designation of an operator of a particular service.

Article 55
(Prices, General Terms, Rights of Users of Universal Service)

- (1) The Agency shall monitor the development and price level of services from the scope of Universal Service.
- (2) The prices of individual services provided under the Universal Service, with a particular operator, shall be equal throughout the territory and for all users in Montenegro.
- (3) Universal service providers may offer commercial price options or packages for subscribers with low incomes or subscribers with disability,
- (4) If the Agency establishes that the prices referred to in the paragraph 1 of this Article are too high with regard to the average monthly salary, the Agency shall require from the individual provider of the universal service to offer special tariffs or tariff packages for users with low incomes or disability, which are different from those that are provided for those purposes under commercial terms.
- (5) The Agency shall determine the way of assessment of affordability of prices of services, scope of services and special packages and Ministry shall, with consent of the Ministry in charge for social affairs, determine the categories of consumers which shall be considered as persons with low incomes or persons with disability.
- (6) Without prejudice to general obligations with regard to users' rights, an operator of Universal Service shall be obliged in particular to:
 - 1) Determine unbundled prices and general terms of providing services, in order for the users of a particular service from the scope of universal service shall not pay for the services that are not required or needed.
 - 2) In case the Agency adopts a Decision, subscribers shall be provided with one or more options to control spending:

- Bill itemization in accordance with Article 113 of this Law, free of charge selective outgoing call barring for preventing particular types of calls or calls to certain types of numbers,
- Pre-paid system for paying access to public telephony network and use of publicly available telephony services for users,
- Paying initial connection fee in installments.

Article 56
(Universal Service Quality)

- (1) The Agency shall propose and Ministry shall adopt:
 - 1) Parameters of quality for Universal Service, its limiting values and methods of measurement.
 - 2) At least once in two year period the transfer speed, appropriate for functional access to the internet, including the deadline until which this shall be implemented, taking into consideration dominant access technologies, technological and economical rationality and aims of the electronic communications sector strategy.
 - 3) The content, form and the manner of publication of information on Universal Service quality.
- (2) Operators of Universal Service shall submit to the Agency the information on change of service quality within 30 days from the day when the change of service quality, and at least once per year publish updated information on quality of those services.
- (3) If the Agency has reasonable doubts regarding authenticity of the data submitted by a particular provider, it may ex officio order independent audit at the operator's expense. In case that an independent audit confirms the authenticity of the submitted data, the Agency shall bear the expenses related to the audit.
- (4) If the measured values of quality parameters of a particular operator of Universal Service at least three times consecutively for a period of one year do not attain limiting values, the Agency shall be entitled to initiate the procedure of selection of a new provider.

Article 57
(Compensation of Net Costs of Providing Universal Service)

- (1) Universal service operator shall be entitled to compensation of net costs, if the provision of services in accordance with obligations from Article 53, and Article 55 of this Law, causes net costs and represents an unfair burden.
- (2) Net costs in providing the service shall represent the difference between increase of total revenue and total costs incurred through fulfillment of obligations of providing universal service.
- (3) The Methodology of calculation of net costs shall be prescribed by the Agency after performed public consultation process.
- (4) Operator of universal service shall be obliged to keep separate records for the costs originating from the measures taken according to the Article 53, paragraphs 4 and 5 of this Law from other costs of the service.
- (5) Universal Service operator shall be obliged to submit to the Agency by end of 6th month of calendar year the statement of net costs and accounting records and information, used in the calculation of

net costs for provision of universal service in the previous year, otherwise the operator loses the right to compensation on the net costs ground.

- (6) The Agency or an auditor authorized by the Agency shall conduct an audit and approve the accounting statements and the information from the paragraph 5 of this Article.
- (7) If the universal service provider was chosen in a public tender, the Agency shall in its assessment take into account the costs of provision of the services offered by the operator in the public tender. The Agency shall take into account different costs than the ones offered by the operator in the public tender only in instances where conditions at the time of the public tender have changed and when the universal service operator objectively and transparently has proved the justifiability of derogations. The Agency shall make public the results of costs calculation and the result of audit of the information provided by the universal service provider.
- (8) If the Agency based on net costs establishes that provision of Universal Service represents an unfair burden to 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 costs. When determining this compensation, any intangible benefits obtained by the service provider, shall be taken into consideration.
- (9) The Agency may, for purposes of reducing net costs of providing Universal Service, upon a transparent procedure implemented, require the Universal Service operator to apply certain technical or other solutions or implementation of offered interconnection contracts or cooperation with other operators, or acknowledge net costs up to the amount that would result from application of the requested solution.

Article 58 (Financing Universal Service)

- (1) Compensation for net costs shall be financed through contributions collected by all the operators.
- (2) The amount of contributions and methods of payment for a particular operator or provider shall be determined by the Agency in proportion to the share of their revenue generated from provision of public communications networks or services in the revenue of sector of electronic communications in Montenegro.
- (3) Operators shall pay their contributions directly to the provider of Universal Service within the deadlines and of the amount specified by the Agency in its decision.
- (4) Operators shall inform the Agency until the end of 6th month of the current calendar year on the amount of revenues they had during the previous year. If an operator fails to do so, the Agency shall consider the total revenue from paragraph 2 of this Article, to be the total revenue of the operator from the previous year, on the basis of data from Public Revenues authority.
- (5) If the Agency has a reasonable doubt as regards the truthfulness of the information reported by the operator, the Agency or an auditor authorized by the Agency may review the information and estimate the revenue. If the estimated revenue deviates from the reported revenue more than 3%, the Agency shall, in making its calculations, take the estimated revenue into account and cost of audit shall be paid by the operator.

- (6) The information on compensation of net costs of providing Universal Service, the manner in which these are allocated and used and on parts that were financed, shall be public. Each year, the Agency shall publish an Annual Report on compensation of net costs for providing Universal Service, calculated net costs, intangible benefits taken into consideration in the course of calculation of net costs, and contributions paid.
- (7) In the event that net costs caused by requirements based on obligations prescribed by the Article 55, paragraph 4 of this Law, exceed 1% of the revenue in the sector in that year, the Ministry shall correct those requirements or provide for the payment for the excess amount from the Budget of Montenegro.

CHAPTER VII

STATE OF EMERGENCY AND STRIKE

Article 59

(Universal Service in Time of Strike)

- (1) The Operator of Universal Service shall be obliged in accordance with the Law, for the purposes of providing uninterrupted services, commit and designate its employees that shall enable uninterrupted provision of Universal Service during a strike or state of emergency.

Article 60

(Provision of Services in a State of Emergency)

- (1) Operators of public telephony networks and services are obliged to adopt a plan of measures to ensure the integrity of the public telephony network and to ensure a use of services in the event of large failure of the network, state of war or emergency, or natural or other disasters. These measures shall be applied during the entire course of duration of circumstances due to which they were adopted. The plan of measures shall be submitted at the request from bodies in charge of defense and safety, as well as to the other authorities.
- (2) In the events of state of emergency, operators of electronic networks and services and owners of radio stations, at the request from a competent authority, shall adjust the use of their systems and equipment to such circumstances.
- (3) By application of measures referred to in the paragraph 1 of this Article, uninterrupted access to number for emergency calls including the number "112", shall in particular be ensured.
- (4) The Ministry may prescribe in greater details the measures that shall be defined in the plan from the paragraph 1 of this Article.

Article 61

(Function of Priority in State of Emergency)

- (1) Operators providing public communications networks shall be obliged to adjust their networks so as to give priority to communications from certain network access points.

- (2) The Government shall determine access points and the groups of users with the right to priority network access points. Determination of access points and total number of their users shall be done in a manner that shall not represent an unproportional burden on the operator.
- (3) The Government shall reach a decision on use of the function of priority in duration of a state of emergency. If so is technologically justified for purposes of enabling the function of priority, the Government may request the operators to terminate the operation of other telephone connections or stipulate other measures that contribute to eliminating the state of emergency.

CHAPTER VIII
LIMITED RESOURCES

RADIO – FREQUENCY SPECTRUM

Article 62
(Bodies Competent for Management)

- (1) Radio frequency spectrum is a limited natural resource of public significance to Montenegro. The ownership rights and authorization over the mentioned resources are executed by the State of Montenegro.
- (2) The competent state bodies shall, in accordance with acts of international law applicable in Montenegro, ensure the effective and uninterrupted use of the radio frequency spectrum and shall ensure the rights of Montenegro to orbital positions.
- (3) The Agency shall manage, supervise and control the use of the radio frequency spectrum, in accordance with Plan of Radio Frequency Allocation and Plan of Radio Frequency Assignment, i.e. this Law.

Article 63
(Plan of Allocation of Radio Frequency Bands)

- (1) Plan of allocation of radio frequency bands shall define radio frequency bands for individual radio communications services, and basic terms of use of radio frequency spectrum, in accordance with international regulations in the field of radio communications.
- (2) Plan of allocation of radio frequency bands shall be adopted by the Government,.
- (3) Plan of allocation of radiofrequency bands shall be published in the Official Gazette of Montenegro and on Agency's web site.

Article 64
(Plan of Radio Frequencies Assignment)

- (1) Plans of assignment of radio frequencies shall contain closer terms and manner of use of individual radio frequencies pertaining to particular radio communications services, within particular radio frequency bands, in accordance with the Plan for Allocation of radio frequency bands,
- (2) Plan for Assignment of radio frequencies shall be adopted by the Agency.
- (3) Plan for Assignment of Radio Frequencies shall be determined by the Agency with consent of:
 - 1) state bodies and institutions competent for civil air transportation and maritime transportation in relation to the plans for radio frequencies allocated for purposes of air and maritime traffic safety;
 - 2) state bodies competent for planning and management of radio frequencies concerning the plan related to use of radio frequencies for purposes of national security and defense and

- 3) Regulatory Body responsible for program content concerning the plan related to radio frequencies used for broadcast and in Amateur Radio Operators' Association of Montenegro.
- (4) In the course of adopting the Plan for Assignment of Radio Frequencies, the needs of national security and defense, protection from natural and other disasters and needs of air traffic safety shall be taken into consideration.
- (5) Plan for Assignment of Radio Frequencies, and any changes and additions thereof, with consent of the Ministry in charge of defense and Ministry in charge of interior affairs shall be published in the Official Gazette of Montenegro and on Agency's web site.

Article 65
(Approval for Use of Radio Frequencies)

- (1) Natural persons and legal entities may use radio frequencies only based on a decision on approval of use of radio frequencies issued by the Agency (hereinafter: Approval on radiofrequencies)
- (2) Without prejudice to paragraph 1 of this Article, according to the Plan of Allocation and international Acts endorsed by Montenegro, the Ministry shall determine which frequencies and under which conditions may be used without approval on radiofrequencies.

Article 66
(Issuing Approvals)

- (1) The Agency shall issue an Approval for frequencies, in accordance with procedure prescribed by this Law.
- (2) Approval for use of radio frequencies is issued based on a tender procedure, according to procedure prescribed by this law, only for radio frequencies intended for provision of broadcasting activities or when, in accordance with Article 68 of this Law, it is established that efficient use of assigned radio frequencies may be obtained only by means of limiting the number of approvals on radiofrequencies.

Article 67
(Procedure of Issuing Approvals for Frequencies)

- (1) The Agency shall issue an approval on radiofrequencies, based on the submitted request for issuance of an approval for use of radio- frequencies which shall contain the following information:
 1. name and last name, address and birth certificate number for natural persons;
 2. title, principal office, code and registration number, for legal entities
 3. statement on legal representative for legal entities;
 4. explanation of necessity and intended purpose of use of radio frequencies, and
 5. technical solution, with information on geographic area of use and location of the transmitter, calculation of propagation and of service zone, antenna system and characteristics of radio emission, efficiency of frequency use, environmental impact and impact on operation of other radio communication systems.

- (2) The Agency shall issue an approval on radiofrequencies within deadline shorter than 45 days from the day of submission of the request, except in cases of assignment of radio frequencies through tender procedure when the deadline must be shorter than of eight months., i.e. sixth months as of the day of initiative submission, by the Regulatory Body for the Program Content.
- (3) The Agency shall deny the request, if it is established that:
 1. The submitter has had an approval revoked due to his fault in the last five years;
 2. The assignment of radio frequencies would not be in accordance with the efficient use of the radio frequency spectrum or it is not in accordance with the Article 22 of this Law;
 3. The operation of radio equipment might cause unavoidable harmful interference to other electronic communication systems or equipment.
 4. Radiofrequencies for which request is submitted are not available.
 5. The request is not prepared according to Plan for Assignment of radio frequencies or Plan of allocation of radio frequency bands.

Article 68
(Acquisition of Opinions of Interested Parties)

- (1) If the Agency considers that interest in a particular radio frequencies could exceed the availability and thereby question the efficient use thereof, it shall acquire the opinions of interested parties concerning the conditions of use of frequencies, market value of frequencies and on limiting number of approvals for radiofrequencies.
- (2) The call for submission of opinion shall be public, and the deadline for its submission shall not be shorter than 30 days.
- (3) The Agency shall be obliged to maintain the confidentiality of information from submitted opinions of interested parties regarding the market value of radio frequencies, or such information labeled as secrets.
- (4) If the Agency, on the basis of the response of interested parties, determines that allocated radio frequencies would not be sufficient for all interested parties or if it directly receives initiative for public tender by Regulatory Body for Program Content, it shall be obliged to implement tender procedures for the assigned radio frequencies allocation.

Article 69
(Implementation of Public Tenders)

- (1) The Agency shall manage public tenders, according to the Article 68 of this Law, through a specially appointed committee, which may include persons not employed in the Agency, and having no conflict of interests.
- (2) In case of tender for radio frequencies for the provision of broadcasting activities, the Committee and criteria shall be appointed in cooperation and with consent of the Regulatory Body for the Program Content.
- (3) The Tender issued by the Agency shall contain:
 1. Allocation of radio frequencies which are subject to the public tender, the radio communications services to be provided thereby, and the areas or locations where such radio frequencies are to be used;

2. Conditions, requirements and qualifications to be met by the bidders, and which must be in compliance with pertinent regulations on spatial planning;
 3. Criteria for selection of the most favorable bid, the method of their application, and possible restrictions to be taken into account in the evaluation of bids;
 4. Minimum amount of fees for effective use of radio frequencies and payment methods;
 5. Deadline and manner of submission of bids, including an obligation to submit a summary on important elements of the bid;
 6. Address, place and date, and time of public opening of bids;
 7. Place, time and contact person from whom the interested parties may obtain the tender documentation, the price of tender documentation, and the method of payment for such documentation
 8. The contact person whom the bidders can obtain additional information from;
 9. The deadline for informing the bidders on the decision made
 10. Other rules of the tender procedure in accordance with the Law.
- (4) Minimum amounts of additional fees from subparagraph 4 of paragraph 3 of this Article shall be determined by the Ministry.
 - (5) When the subject of a tender are radio frequencies intended for broadcasting the Agency shall reach a decision on introducing tender procedure on initiative or with consent of the Regulatory Body for Program Content.
 - (6) Tender for assignment of radio frequencies for broadcasting shall, in addition, contain conditions which a bidder must fulfill in the view of program content and other conditions according to media legislation.
 - (7) The price of tender documentation from subparagraph 8, paragraph 3 of this article shall be determined by the Agency in the amount that covers production of such documentation.
 - (8) Upon completion of the tender procedure, the Agency shall reach a decision, which shall be published in the "Official Gazette of Montenegro", and on the Agency's web site.

Article 70
(Deadline for Submission of Bids)

- (1) The deadline for submission of bids shall not be shorter than 30 days, or longer than 90 days from the day of publishing the invitation to bid.
- (2) The Agency shall not accept the bids, amendments or supplements thereof, which have been received after the expiry of deadline referred to in paragraph 1 of this article. If such bids are sent by mail, they shall be returned to the sender sealed and without being previously opened.
- (3) The Agency shall preserve secrecy of the bidders list and bids submitted until the expiry of deadline.

Article 71
(Tender Documentation)

- (1) In the tender documentation, the Agency shall clarify any clause from the decision to initiate public tender, stating the selection criteria and indicating which additional documents are mandatory for the bids to be deemed acceptable.

Article 72
(Proceeding of Public Opening of Bids)

- (1) Opening of bids shall be public. Committee referred to in paragraph 1 of Article 69 of this Law shall keep minutes on the procedure of opening bids, which in particular shall contain among others an archive number of the offer and in cases of an anonymous tender, data on the title or code of the bidder and the bidding price.
- (2) Business secrets of the bidders, provided in submitted documentation, must not be publicly disclosed or used for other purposes.
- (3) At the public opening of the bids it shall be verified whether the bids contain all documents required by tender documentation, and summaries of important elements of each bid, wherein the contents of documentation submitted are not presented. Only bids delivered within the set deadline and correctly completed and marked shall be opened.
- (4) In the decision on initiation of the public tender, the Agency may stipulate the minimum number of bids that meet the tender conditions, needed for tender procedure to be deemed successful. If this is not the case, a tender shall be successful if at least one such valid bid was received.

Article 73
(Review and Evaluation of Bids)

- (1) Upon completion of public opening of bids, the Committee referred to in paragraph 1 of Article 69 of this Law shall firstly determine whether all documents from the bid meet the tender specifications and whether they are in accordance with the Law. Committee shall exclude from the further procedure , bids that are not in accordance with the Law and tender documentation
- (2) After reviewing and evaluating the received bids, the Committee shall submit a report to the body reaching the decision on initiation of tender procedure, in which they present the evaluations of bids and a rank list according to fulfillment of selection criteria in the tender documentation.
- (3) The Committee, in the course of reviewing and evaluating the bids, shall take into account only such criteria for selection of the most favorable bidder laid down by the Law and decisions from the Article 69 paragraphs 2 and 3 of this Law and the tender documentation, and in particular those that enable a more efficient use of radio frequency spectrum and the promotion and protection of competition.

Article 74
(Continuation of the Procedure)

- (1) Following the receipt of the report on evaluation of the bids by the Committee referred to in paragraph 1 of Article 69 of this Law,, the Agency shall proceed with procedure according to general administrative procedure. Any qualified bidder that meets the requirements of the tender shall have the status of a party in the procedure.
- (2) Based on evaluated bids the Agency shall issue a certain number of approvals defined by the decision on assignment of the available radio frequencies. The Agency shall issue an approval within deadline not longer than three months from the expiration of the deadline for submission of bids and inform the public on its decision.

- (3) The Agency may cancel the procedure of issuing or amending approvals for use of radio frequencies, only for the purpose of additional harmonization, review or the activities in accordance with binding international regulations.

Article 75
(Contents of Radio Frequency Approvals)

- (1) Radio Frequency approval shall contain:
 1. Information on the holder of the approval to use radio frequencies;
 2. Radio frequencies assigned;
 3. Data on location and area of coverage;
 4. Validity period of the approval to use radio frequencies and
 5. Terms for use of assigned radio frequencies.
- (2) The approval, for use of radio frequencies for broadcasting purposes, in addition to information from paragraph 1 of this Article, shall also contain identification of the program and requirements in relation to program content according to the Law.
- (3) Users of radio frequencies shall be obliged to report to the Agency any changes in relation to information specified in paragraph 1 subparagraph 1 of this article, within 30 days from the onset of such changes.

Article 76
(Conditions on Use of the approved Radio Frequencies)

The Agency may foresee such conditions in radio- frequency use approvals that specify:

1. purpose of service or type of network and technologies for which the right to use radio frequencies is granted, including, where applicable, exclusive use of radio frequencies for transfer and emission of a specific content or specific audio-visual service;
2. measures to ensure efficient use of radio frequencies, including, where appropriate requirements regarding coverage or signal strength ;
3. technical and operational conditions necessary for avoidance of harmful interference and limitation of exposing the population to electromagnetic radiation;
4. duration of the right to use radio frequencies;
5. transfer of assigned rights to use radio frequencies and conditions for such a transfer;
6. payment of fee;
7. additional obligations of accepted or bound to by a bidder in the tender procedure;
8. Obligations regarding international regulations applicable in Montenegro pertaining to radio frequencies.

Article 77
(Duration of Validity of Radio Frequency Approvals)

- (1) The Agency shall issue Approvals for use of radio frequencies for the period not longer than fifteen years, with the exception of Approval for aeronautical and maritime mobile services issued with the validity time until the cessation of their use.
- (2) The Agency shall issue temporary approvals for use of radio frequencies intended for research, measurements and certification of radio-communication equipment for a restricted area of coverage for no more than 90 days.

- (3) The Agency shall issue temporary approvals for use of radio frequencies for purposes of extraordinary events for the maximum period of 60 days, and in extraordinary circumstances for the period until these expire.

Article 78
(Extension of Validity of Approval)

- (1) The validity Approval may be, at a request of the holder thereof, extended if all the conditions prescribed for use of such radio frequencies are met. Validity of temporary approval from Article 77 of this Law may not be extended.
- (2) Applications for extension of radio frequency approvals shall be submitted to the Agency no less than 30 and no more than 90 days, prior to expiration thereof.
- (3) In the event of granting extension, the Agency shall issue a frequency approval, for a period not longer than ten years.

Article 79
(Transfer of Right of Use)

- (1) Transfer or assignment of the right to use radio frequencies to another natural person or legal entity shall be prohibited without consent from the Agency, who decided on it based on previously submitted request in writing by holder of Approval.
- (2) Upon a request pursuant to paragraph (1) of this Article, the Agency shall verify that the natural person or legal entity to which the right to use radio frequencies is proposed to be transferred meets all of the conditions laid down in the Law and other applicable regulations
- (3) When request is related to the frequencies used for broadcasting, prior consent of the Regulatory Body for program content shall be obtained.

Article 80
(Amendment of Approval)

- (1) The Agency may, *ex officio*, amend a radio frequency approval if:
 1. the Plan for Allocation, Plan for Assignment, or regulations pertaining to the conditions for the use of radio frequencies are amended;
 2. there is a public interest that can not otherwise be met;
 3. the need for amendment arises for the reasons of efficient use of radio frequency spectrum;
 4. harmful interference or excessive emission can not otherwise be removed
 5. The amendment is required by the international regulations whose appliance is obligatory in Montenegro.
- (2) In cases referred to in paragraph 1 of this article, after consultation with the holder of approval, the Agency shall issue an approval containing the amendment, including a reasonable period within which the holder must adjust the use of radio frequencies to the new conditions.
- (3) Holder of Approval, which has been amended, shall have the right to be assigned other equivalent radio frequencies if the reasons for amendment or revocation arise through no fault on the part of the holder of approval.
- (4) In cases referred to in subparagraphs 3 and 4 of paragraph 1 of this Article, the holder of Approval shall adjust his activities according to the changes in radio frequency approval at his own expenses.

- (5) The Agency may, exceptionally, extend the validity of radio frequency approval, if the cost of adjustment exceeds disproportionately upon the benefits held by the party approved to use the frequencies.
- (6) Should the amendments to a radio frequency approval be requested by the holder, radio frequency approval may be issued under the terms of this Law and in a manner that does not encroach upon the rights of other users of radio frequencies.

Article 81 (Revocation of Approval)

- (1) The Agency may revoke an approval for use of radio frequency either *ex officio*, at the suggestion of the party to whom that Approval has been issued, or upon request of the State Prosecutor.
- (2) The Agency shall be obliged to initiate, *ex officio*, the procedure for revocation of a radio frequency approval for use of broadcasting frequencies if requested to do so by the Regulatory Body for Program Contents, according to the Law.
- (3) The Agency may revoke a radio frequency approval at the request of the holder if she/he has met all obligations according to this Law and terms and conditions of the radio frequency approval.
- (4) The Agency shall revoke a radio frequency approval *ex officio* if it determines that:
 1. the request for the radio frequency approval contained false information;
 2. Holder of Approval does not obey the prescribed conditions pursuant to this Law or conditions from in the radio frequency approval
 3. the deficiencies that the Agency issued the order to be removed, have not been removed within the stipulated time interval;
 4. the fees for use of radio frequencies, were not paid irrespective of a notice previously issued by the Agency on outstanding obligations
 5. It is not possible to otherwise avoid harmful interference.
- (5) Fees paid for the year in which revocation occurs are non-refundable.

Article 82 (Cessation of Validity of Radio Frequency Approvals)

- (1) The Agency shall issue a decision on the cessation of validity of a radio frequency usage approval.
- (2) Radio frequency approvals shall cease to be valid by force of law:
 1. upon expiry of the period for which they were issued;
 2. if the holder of the approval has ceased to exist;
 3. if the holder of the approval failed to start using the radio frequencies within one year of the issuance of the radio frequency approval, unless otherwise stipulated therein and
 4. With cessation of permission to perform broadcasting activity, in case of broadcasting frequencies.
- (3) Fees paid for the year in which cessation occurs are non-refundable.

Article 83

(Registry on Approved Radio Frequencies)

- (1) The Agency shall keep a Registry on radio frequencies approved for use.
- (2) Registry shall contain information on natural persons and legal entities to which radio frequencies were approved.
- (3) The Agency shall also keep records on locations of fixed radio-stations, coverage areas and radio corridors used based on the approval on use of radio frequencies. The Agency shall cooperate with the responsible body for spatial planning in order to enable efficient use of radio frequency spectrum and uninterrupted use of approved radio frequencies.

Article 84

(Fees for Use of Frequencies)

- (1) Applicant for approval of use of frequencies shall be obliged to pay a one-off fee to the Agency which corresponds to actual costs of processing the request.
- (2) The amount of the fee referred to in paragraph 1 of this article shall be determined by the Agency
- (3) Holder of approval for radio frequencies shall be obliged to pay a regulatory annual radio frequencies usage fee to the Agency, which shall be used solely for covering the expenses of frequency spectrum supervision and management.
- (4) The Ministry shall prescribe methodology and manner of calculation of fees level, expressed in points. The Agency shall suggest monetary value of the point, based on estimation of total annual regulatory costs on the above mentioned basis, by which level of fees will be calculated and incorporated in the Financial Plan for the following calendar year and the level of fee shall be determined by the Government, by adoption of Financial Plan of the Agency.
- (5) Fees from paragraphs 1 and 4 of this article shall not be paid by radio amateurs, emergency services, rescue services and public broadcasting services and users guaranteed so by international contracts.
- (6) Holders of radio frequency approval shall pay a fee to the Budget of Montenegro according to a price list determined by the Government following a proposal from the Ministry, which is used for recovery of expenses of administering of radio frequency spectrum. The amount of this fee shall not exceed 10% of the fee referred to in paragraph 3 of this Article.
- (7) When radio frequencies are assigned pursuant to a public tender, in which one of criteria for selection of operators is offered additional fee for use of radio frequencies, value-based fee reached on the tender, shall represent revenue for the Budget of Montenegro.
- (8) The fee from paragraph 1 of this Article shall be paid to the account of the Agency when submitting a request, and the fee from paragraph 3 for each current year, starting from the date of issuance of approval for use of radio frequencies.
- (9) The fee from paragraph 6 of this Article is paid to Budget of Montenegro for each current year starting from the date of issuance of approval for use of radio frequencies, and for the fee from

paragraph 7 of this Article at the latest 60 days from the day of completion of tender procedure.

Article 85
(Radio and Telecommunication Terminal Equipment - R&TTE)

- (1) Radio and telecommunication terminal equipment (hereinafter: R&TTE) may be freely imported, introduced to the market, and used in Montenegro if it meet the conditions provided by this Law and regulations adopted based on this Law, and other acts regulating import, introduction to the market and use for individual components, systems or rights.
- (2) Check regarding fulfillment of the conditions referred to in paragraph 1 of this article shall be performed by the Commission established by the Ministry.
- (3) Provisions of paragraphs 1 and 2 of this article shall also be applied on medical devices and active medical implants using radio waves and/or operators's services for its operation, as well as on integral parts or complete devices in vehicles.
- (4) Provision of this article shall not be implemented on import, introduction to the market and use of R&TTE exclusively used by armed forces of Montenegro, police and security services of Montenegro, as well as foreign diplomatic missions.

Article 86
(Restriction of Electromagnetic Fields Strength)

Use of R&TT equipment and elements of electronic communication networks must be such that total strenght of electromagnetic fields at particular location does not exceed limits stipulated by special law.

NUMBERING

Article 87
(Numbering Plan and Plan on Addresses)

- (1) Numbering Plan shall determine the type, structure, length, allocation and manner of use of the numbers for access to the public electronic communications networks and public electronic communications services,
- (2) Plan on Addresses shall contain definitions and structure of the international signalling points codes, national signalling points codes, mobile networks codes, indentification code of the data transfer network and manner of management.
- (3) Plans referred to in paragraphs 1 and 2 shall be adopted by the Agency.
- (4) The Agency shall administer Plan on Numeration and Plan on Addresses for the purpose of: providing efficient structuring and use of numerations and addresses; satisfying the needs of operators entitled to allocation of numerations and addresses according to this Law and providing allocation and use of numerations and addresses in a fair and non-discriminatory manner.

(5) Amendments and additions to the Plan on Numeration and Plan on Addresses that affect the numbering and/or addressing system to a great extent and which is technologically demanding to implement, shall be implemented after conducted public consultation and shall be applied two years from the day of entry into force.

(6)The Agency shall keep a registry on numerations and addresses allocated referred to in Plan on Numeration and Plan on Addresses.

(7)The Agency shall publish on its website the data on the allocated numerations referred to in Plan on Numeration and addresses referred to in Plan on Addressing.

Article 88 **(Unique European Emergency Number)**

- (1) Public telephone networks shall be obliged to ensure use of the unique European emergency number 112.
- (2) The Ministry shall, in cooperation with the Ministry in charge of affairs of protection and rescue, stipulate methods, conditions and dynamics of introducing the unique European number for emergency calls, and the quality of service for handling calls to this number.
- (3) The Ministry shall define quality parameters for the service from paragraph 1 of this article, its limiting values and methods of measuring those parameters.

Article 89 **(Using the Numeration and/or addresses)**

- (1) The numeration and/or addresses referred to in Plan of Numeration and Plan on addresses may be used pursuant to an approval obtained from the Agency on using numerations and/or addresses.

Article 90 **(Procedure of Issuing Approval for Use of Numeration and/or Addresses)**

- (1) The Agency shall issue Authorization for use of numerations and/or addresses, by general administrative procedure and through tender procedure in accordance with the Law. Tender procedure shall be conducted when it is estimated that shown interest surpasses availability of the approved numeration or address resource.
- (2) The Agency is obliged to issue Approval within 45 days as of the day of request submitting at the latest, except in case of tender, in which the deadline shall be 3 month.

Article 91 **Request for Approval for Use of Numeration and/or Addresses**

- (1) Request for approval of use of numerations and/or addresses may be submitted by operators to the Agency. The requests shall contain the following data:
 1. name, principal office and evidence of registration of the activity;
 2. information on the type, quantity and purpose of use of numerations and/or addresses applied for;

3. needs assessment plan for numerations and/or addresses usage;
 4. planned date of beginning of use and dynamics of use numerations and addresses; and
 5. additional data the Agency may need to manage the use of numerations and addresses.
- (2) Holder of Approval shall be obliged to inform the Agency on data changes contained in paragraph 1 subparagraph 1 of this article, within 30 days deadline as of the day of these changes occurred.
- (3) The Agency shall refuse to issue the approval for use of numerations and addresses if:
1. the request for allocation of numerations and addresses contains false information;
 2. the applicant is not eligible for allocation of numerations and addresses pursuant to this Law and Plan on Numeration and Plan on Addresses;
 3. the applicant has already had a decision on allocation numerations and addresses revoked in the last five years *ex officio*; and
 4. The intended use does not justify the allocation of the requested quantity or type of numerations and addresses.
 5. the requested resource is not available
 6. Request is not in accordance with the Plan on Numeration and Plan on Addresses.
- (4) The Agency shall be obliged to respond to the request from paragraph 1 of this Article within 30 days as of the day of request submitting.
- (5) The Agency may by one Approval, resolve more similar request of the same applicant.
- (6) The Agency shall prescribe content and form of the request and type and scope of data, enclosing with the request.

Article 92

Content of Approval for Use of Numbers and/or Addresses

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

- 1) Data on holder of Approval
- 2) Approved numerations and/or addresses,
- 3) Purpose of use of the approved numerations and/or addresses
- 4) Beginning, deadline and dynamics of use of approved numerations and/or addresses
- 5) Conditions for the use of the approved numerations and/or addresses.

Article 93

(Conditions for the Use of Numbers and/or Addresses)

The holder of the approval for use of numerations and/or addresses:

1. may reserve numerations and/or addresses for a period of one year, with a possibility for extension for one more year at the most
2. shall return the allocated numerations and/or addresses if they are not used in accordance with the plan and dynamics of use
3. must use the allocated numerations and/or addresses on the way prescribed by Approval;
4. shall pay an annual fee for using the allocated numerations and/or addresses;
5. shall meet the conditions for number portability according to this Law
6. Shall be obliged to use allocated numerations and/or addresses exclusively for the purpose for which those were allocated, not causing the damage to particular users' group.
7. Shall be obliged to fulfill the obligations laid down in the acts of international regulations relating to numerations and/or addresses allocation and use, applicable in Montenegro.

8. Certain numbers from the approved numerations and/or addresses may be assigned for use to its end users.

Article 94

Transfer of rights for use numbers and/or addresses

- (1) Right to use approved numerations and/or addresses, may not be transferred or consigned to other legal entity or natural person, without previous consent of the Agency.
- (2) The Agency shall affirm based on the request submitted in the written form, if legal or physical entity on which transfer or consignment has been proposed, would fulfil all conditions established by Law and other regulation and based on this Agency shall decide if Compliance on transfer or consignment of numerations and/or addresses may be issued.

Article 95

(Amendment of approval for use of numbers and/or addresses)

- (1) The Agency shall not *ex officio* amend previously issued approval for use of numerations and/or addresses in case of changing or appending the Plan on Numeration and Plan on Addresses, within thirty days of the date when the changes enter into force. In such instances approved numerations and/or addresses shall be replaced by the same quantity and type of resources with real deadlines for implementation which can not be shorter than 6 months.
- (2) The Agency may amend decisions on the assignment of numerations and/or addresses upon request of the holder of the right of use of numerations and/or addresses.

Article 96

(Revocation of Approval for Use of Numeration and/or Addresses)

- (1) The Agency may revoke the Approval for use of numerations and/or addresses upon request of the holder thereof and *ex officio* if :
 1. the holder of the approval for use of numerations and/or addresses does not meet the conditions laid down in this Law relating to assignment of numerations and/or addresses
 2. the annual fee for the use of numerations and/or addresses was not paid in due time;
 3. the holder of the approval for use of numerations and/or addresses has not began to use the assigned numerations and/or addresses within two years from the date of the assignment
 4. the numerations and/or addresses are not used in accordance with Article 93 paragraph 1 subparagraphs 2 and 8 of this Law
 5. that holder of Approval for use of numerations and/or addresses has ceased to exist, and its legal successor has not submitted a request for the approval of the same numerations and/or addresses within 3 months,
 6. that holder of Approval for use of numerations and/or addresses has submitted request for revocation of Approval.
 7. that significant changes in the Plan on Numeration or Plan on Addresses occurred and it is not possible to change the Approval, due to non availability of adequate resource
- (2) The Agency shall submit the decision with an explanation of revoking of assigned numerations and/or addresses.
- (3) In cases where the revocation is a result of unpaid annual fee to the Agency, the term for revocation may not be shorter than thirty 30 days from the date of receiving the decision referred to in paragraph 2 of this Article.

(4) Where the right to use numerations and/or addresses is revoked pursuant to the conditions stipulated in paragraph 1 of this article, the term for revocation may not be shorter than sixty days from the date of receiving the decision.

(5) The revocation of the numerations and/or addresses shall be conducted by way of disconnection from traffic by the operators of public communications networks, upon a decision obtained from the Agency.

Article 97

(Fee for Use of Assigned Numeration and/or Addresses)

- (1) The requestor for use of numerations and/or addresses shall be obliged to pay a one-off fee to the Agency or processing the request, which corresponds to actual costs and represents the Agency's revenue.
- (2) The amount of the fee referred to in paragraph 1 of this article shall be determined by the Agency.
- (3) Holders of Approvals for use of numerations and/or addresses shall pay a regulatory annual fee to the Agency, which shall be used solely for covering the expenses of supervision and managing of numerical and address resources.
- (4) The Ministry shall define methodology and manner of calculation of fees level, expressed in points and the Agency shall suggest monetary value of the point, based on the estimation of total annual regulatory costs on the above mentioned basis, by which level of fees will be calculated and incorporated in the Financial Plan for the following calendar year. The level of suggested fee shall be determined by the Government, by adoption of Financial Plan of the Agency
- (5) Fees referred to in paragraphs 1 and 3 of this article shall not be paid by emergency calls services.
- (6) In case of ported numbers referred to in Articles 98 and 99 of this Law, the fee from paragraph 3 of this article for such numbers shall be paid by the operator to whom the numbers have been ported.
- (7) The fee for use of the assigned numerations and/or addresses shall be paid to the Agency in advance for each year, starting from the date of issuance of the decision on assignment of numerations and/or addresses.

Article 98

(Mutual Obligations of Operators for Number Portability)

- (1) Operators of networks shall be obliged to enable number portability to their subscribers, in accordance with Article 112 of this Law.
- (2) Operators shall be obliged to adjust their networks for providing function of number portability at their own expences and to bear the costs of maintenance of such facilities. Operators shall regulate mutual rights and obligations by the contract on internetworks connection.
- (3) Handling costs and interconnection prices, related to number portability providing, must be cost oriented and must not destimulate use of this possibility.
- (4) Operator shall calculate one time amount for number portability to the operator in which network number is ported.
- (5) Operator of network in which call was originated, shall pay costs to the operator in which network call to the ported number is terminated according to the interconnection contract.

- (6) An operator shall submit to the Agency, until the 15th of January of the current year, the data on how many numbers were ported to other operators during the previous year, and how many numbers were ported to that operator during the previous year.

Article 99
(Number Portability Implementation)

- (1) The Agency shall, by means of a separate act, regulate issues related to number portability and shall ensure that fee, bearing by subscriber as one-time fee, do not destimulate use of this possibility and that is adequate to the actual operators' costs. At the same time the Agency shall not impose tariffs which would destimulate competition.
- (2) In drafting the Act from paragraph 1 of this Article, the Agency shall consider the manner of implementation of the number portability system, including also:
1. technical feasibility and efficiency of number portability solution;
 2. technical parameters that are preserved during the number portability in order to ensure that the number portability will not result in degradation of service quality or network reliability;
 3. the deployment schedule for number portability implementation, which shall be implemented no longer than three years and not sooner than one year from the effectiveness date of this Law;
 4. technical trial of the proposed system for number portability;
 5. Need of updating the Universal Directory.

Article 100
(Emergency Call Service Numbers)

- (1) All operators of public telephone networks shall be obliged to ensure that users of publicly available telephone services, including users of public pay telephones, are able to call emergency call numbers including number 112 free of charge.
- (2) All operators of public telephone networks or publicly available telephony services, if technically feasible, shall be obliged to enable the emergency services, free of charge incoming call identification and call location.

Article 101
(Non-geographic Numbers)

Operators of public telephone networks or public telephony services shall be obliged to, if technically feasible and economically justifiable provide an option for users outside of Montenegro to make calls to non-geographic numbers determined in the Plan on Numeration.

CHAPTER IX
USER RIGHTS AND PROTECTION OF USER INTERESTS

Article 102
(General Terms of Use)

- (1) All persons shall have the right to use public electronic communications services, under specified conditions and prices, if that is technically feasible.
- (2) For purposes of exercising the right referred to in paragraph 1 of Article, operators of public electronic communications network, or publicly available electronic communications services, shall take appropriate measures and shall be obliged to make publicly available current prices, tariffs and general terms of providing their services.
- (3) The Agency shall prescribe which information the operators are obliged to publish and in which manner, and which shall be published by the Agency.
- (4) Public communications service users and operators shall have the right of objection to the Agency with regard to access to or provision of services.
- (5) A complaint may be lodged on the Agency decision before the Ministry within 15 days as of the day of Decision receipt.
- (6) The operator of public electronic communications network cannot assign obligations to its' subscribers by which:
 - 1) use of one service is conditioned by the use of the other service
 - 2) optional right of the operator is contracted regarding delivery of the contracted service and the user is obliged to fulfil contracted obligation
 - 3) The right of an operator to keep the funds paid by the user who gave up on conclusion or fulfillment the contract is established, while the same right is not established for the user, in case the operator gives up on conclusion or fulfilment of the contract.
 - 4) The user is obliged to pay disproportionately high fine in relation to actual damage in case of non-fulfillment of the contracted obligation.
 - 5) The right of an operator is determined to set the price of a service in the moment of delivery or to increase the price of service without defining the right of a user to break the contract if the final price is higher than the previously contracted one
 - 6) The right of an operator is determined to estimate whether a product delivered fits contracted quality.
 - 7) The user is obliged to fulfil all contracted obligations, regardless of whether the operator has fulfilled its contracted obligations.
- (7) The operator is obliged to submit standard subscribers' contract for each electronic communications service offered by the operator to the Council for consent.

Article 103
(User Rights)

- (1) The user of public communications services has the following rights:
 - (1) to access public electronic communications network, within 15 days from the day of submission of the request, if this is technically feasible;

- (2) to use of services of electronic communications of publicly declared quality, availability and reliability;
- (3) to detailed, itemized bill with prices of electronic communication services in a form that enables user controlled spending;
- (4) To protection of privacy of electronic communications, except in cases prescribed by the Law.
- (5) Rights resulting from the other Laws, regulating the field of consumer protection, unless otherwise stipulated by this Law.

Article 104
(Subscriber Agreement)

- (1) Operators, providers of public electronic communications services, and subscribers to these services shall define mutual rights and obligations by means of an Agreement.
- (2) Subscriber Agreement shall in particular contain: name and address of the operator/service provider and subscriber; deadlines and terms for installation of subscriber terminal equipment; overview of services subject to the Agreement, offered quality, prices and tariffs at the moment of conclusion of Agreement; type of offered maintenance services and methods of acquiring the most up-to-date information on valid tariffs and maintenance expenses; option of transferring and temporary shutting off of subscriber's terminal equipment; actions taken in case of failure to pay for services rendered; methods of refunding for services not rendered in accordance with the agreed quality and declared terms; procedure for resolving disputes; the manner of notifying subscribers of intended modifications to the conditions in the Subscriber Agreement and the manner of exercising subscriber's right to termination of the contract in such a case; duration of the Subscriber Agreement, and the conditions for extension, amendment and termination of the Subscriber Agreement; provision by which an operator is protecting itself from potential possibility of a user becoming a "virtual operator", i.e. to extend the service provided to him/her based on the subscribers' agreement to other users,
- (3) Agreement on providing publicly available electronic communications services, concluded for a period longer than one year, shall contain a provision on subscriber's right to cancel the contract, with cancelation notice period not longer than three months.
- (4) An operator shall be obliged to inform the subscribers at least 30 days prior to the eventual modifications of terms defined in the Subscriber Agreement. Within that notice period, subscribers may cancel the Subscriber Agreement, without any sanctions and without application of agreed notice period if changes are on the demerit of the subscribers due to which they do not agree with such changes.
- (5) An operator of public electronic communications network shall not determine any obligations to their subscribers in the event of a network upgrade.

Article 105
(Connecting Terminal Equipment)

- (1) An operator of public communications networks or provider of public communications services shall grant any justified request by a subscriber for connecting radio or telecommunications terminal equipment, if such a request meets the requirements provided by the regulations from this field. The operator may deny such request only in the event of technical unfeasibility of connection

- or other justified reason.
- (2) Service user shall not be permitted to connect any radio or telecommunication terminal equipment, which does not meet the requirements prescribed by Article 86 of this Law to the public communications network.

Article 106
(Quality of Service)

- (1) Operators - providers of services shall be held responsible for quality of public communications services they provide.
- (2) Parameters for establishing the quality, methods of measurement and permitted limiting values of those parameters, for Universal Service shall be prescribed by the Ministry. For other types of electronic communication services, the Agency shall prepare experts foundation and the Ministry shall pass separate Act prescribing standards of quality, methods of measurement and publishing in accordance with international recommendations and service quality standards for individual services, or in the absence of the aforesaid, in accordance with best practise and measures of usual and technology guaranteed quality of standard equipment, and upon the prior consultations with interested parties.
- (3) Operator, providers of public communications services shall be obliged to submit to the Agency, within a deadline defined by the Agency, information on quality of services they provide.
- (4) The Agency shall publish that information referred to in paragraph 3 of this article in the form of parallel overview, showing level of quality for the same type of service from different operators/services providers.

Article 107

(Outgoing Selective Call Barring and Restriction of Spending)

- (1) An operator, provider of services, shall be obliged upon a subscriber's request, provide free of charge outgoing selective call barring to a specific number or a group of numbers
- (2) An operator, provider of services, shall be obliged upon a subscriber's request, provide free of charge restriction of spending for the accounting period
- (3) The restriction referred to in paragraphs 1 and 2 of this article can be used by a subscriber simultaneously or in uneven duration.
- (4) A one-off fee may be charged to the subscriber for activation of these services only in case the subscriber requires it more than two times during a calendar year.

Article 108
(Call Forwarding)

- (1) Operator providing public communications services, shall enable all subscribers a simple and free of charge establishment of call forwarding service to any number in their network or in a network of other operator/provider, if so is technically feasible and would not incur disproportionately high costs.

- (2) In case that an operator refuses to provide call forwarding due to reasons referred to in paragraph 1 of this article, the operator shall be obliged to submit to a subscriber written information including detailed explanation of the reasons for rejection.
- (3) A subscriber shall be enabled to, in a simple manner and free of charge, prevent automatic call forwarding by third persons to his terminal equipment.

Article 109

(Units and manner of calculating services)

- (1) As measure of quantitative and qualitative extent of services provided at the Montenegrin market of publicly available electronic communications services only internationally accepted units, both basic and derived from SI system, shall be used.
- (2) Only actually accomplished extent of services shall be used for accounting.
- (3) Using derived units not codified by the international SI system or derived qualitative and quantitative indicators based on which expected, but not actually accomplished extent of services would be accounted, shall not be allowed.
- (4) A service provided shall be accounted exclusively on a single base that defines it in the actually accomplished extent or quality and which is non-discriminatory.

Article 110

(Number Portability)

(1) Subscribers of public telephony services, including subscribers to mobile services, upon a request, shall have the right to reserve their numbers and retain them, in the following cases

- a) in case of geographic codes, on a specific geographic location
 - b) In case of non- geographic codes, in any location.
- (2) Right to portability in a specific geographic location, shall represent the right of a subscriber to keep the existing number when changing geographic location of termination point of his terminal equipment within the same network, including the right to keep the same subscriber's number when changing a service.
 - (3) Operators of public communications networks and service providers in fixed networks shall enable geographic portability to their subscribers if so is technically feasible
 - (4) Operators of public communications networks and service providers in mobile networks shall enable their subscribers number portability when switching operator or service provider,.
 - (5) A subscriber may not request number portability from a network providing services in a fixed location, to mobile network and vice versa.

Article 111

(Directory and Directory Enquiry)

- (1) Operators shall be obliged to arrange, publish and regularly update public directory of all subscribers except those who requested in writing (special request or contract) not to be listed in the directory.
- (2) Subscribers shall be provided with: free of charge information on volume and purpose of information entered into the directory prior to its publication, on possible use of their personal information, on minimum and maximum amount of information that can be found in the directory, on the right to free of charge entry of information according to personal preference to the extent that such information is compliant to the purpose of the directory, on the right to free of charge changes, updates or deletion of their personal information from the directory.

- (3) Legal entities shall not be entitled to request not to list such information in public directory, which is used for their identification and communication therewith, except of the authorities in charge of the defense and security affairs.
- (4) The directory shall be published in printed and electronic form.
- (5) Information from the directory shall be easily accessible to all users through public directory enquiry service.
- (6) A Universal information service operator shall provide publicly available directory enquiry service, which shall provide all the users, including the users of public pay phones, with information on numbers of subscribers of all public communications networks in Montenegro.

Article 112
(Service Security)

- (1) Operators of public communications networks and services shall undertake appropriate technical and organizational measures for the purpose of providing security of service and protection of their users from malicious activities, electronic sabotage and frauds performed by third persons and abuse of any kind.
- (2) In case there is a possibility of influencing security of communications, an operator shall inform the Agency and user in due course.
- (3) Operators of public communications networks and services shall not request a user of their services to compensate for expenses arising from a call (communication) that did not result in access by the user to desired service, or expenses occurred as a consequence of lack of security of a service from paragraph 1 of this Article.

Article 113
(Right to Itemized Bill)

- (1) Operators providing public communications services shall use equipment that accurately registers information on communications service rendered, for the purpose of precise calculation of those services. They shall also be obliged to provide the users with that information, or issue, free of charge, the itemized bill, unbundled to the extent that enables easy overview of all items and verification of the calculation of the amount. Such itemization shall not include calls to toll free phone numbers, including emergency numbers.
- (2) Itemized bill, referred to in paragraph 1 of this Article, which represents the main bill breakdown, shall be supplied to the subscribers free of charge, while delivering any bill, as well as on the operator's web site, unless the requestor informs the service provider that he/she does not wish to receive the itemized-unbundled bill.
- (3) Itemized bill for publicly available telephony services referred to in paragraph 1 of this article, in a fixed location, shall contain separately the following information: accounting period; initial connection fee; the amount of the subscription fee; type and amount of all other possible lump sum payments in the accounting period relating to provision of service for which the bill is issued; type and amount of all possible monthly lump sum payments or non-periodical installments; number of calls and their duration, number of accounting units, individual price per accounting unit, and amounts appearing separately for: local calls, intercity calls, international calls, calls to mobile public communications networks (roaming calls may be shown through the type and

- amounts of the other services rendered), calls to numbers of added value services and data transfer calls; type and amount for other services rendered; total amount of the bill.
- (4) Provision from paragraph 3 of this Article shall be applied to other publicly available electronic communications services.
 - (5) If an operator offers a higher degree of bill itemization, then so shall be published in general terms. If such information is offered for a fee, the prices thereof shall be formed so to reflect actual costs, occurring on the basis of further itemization.

Article 114
(Objection and Complaint)

- (1) Subscribers of public communications services shall have the right to object to approach and quality of services provided by operators, and in relation to bill for the services provided.
- (2) Objection, on the issues of approach and quality, a subscriber submits to the operator, immediately upon identifying such circumstances, and the objection to a bill, a subscriber shall submit 8 days from the reception thereof, in writing.
- (3) An operator, provider of communications services shall decide within 15 days from the day of reception of an objection and deliver the user a relevant written notification.
- (4) Until adoption of decision on the objection, the user shall pay the undisputed amount of the bill, or the amount corresponding to the average bill for three previous accounting periods.
- (5) If an operator denies the objection by the user, or does not make a decision within 15 days from the day of submission of the objection, the user has the right to, within the following 15 days, submit the complaint to the Agency, which shall make the decision within 30 days.

Article 115
(Restriction of Service to Subscribers)

- (1) Operators, providers of public communications services, may restrict the access to their services, i.e. disconnect a subscriber and terminate the subscriber contract if a subscriber fails to settle his liabilities or breaches other conditions laid down in the Subscriber Agreement. Provider shall stipulate in the general conditions which measures shall be taken for a specific breach and the deadline within which they are implemented. The measure and deadline selected must be proportionate to such a breach and non-discriminatory.
- (2) In the event of breach of contractual obligations, operators shall be obliged to send, in a reliable manner, a written notice stating the reasonable deadline within which the subscriber must remove the irregularities, or make the payment, and point out the actions that the service provider shall take, if the subscriber after the expiration of the deadline does not end the breach of contract or does not make the payments.
- (3) Regardless of provision from paragraph 2, operators shall not be obliged to notify subscribers in advance of measures according to the Law if the breach causes an immediate and serious threat to public order, public safety or health, or causes serious commercial or operational damage, and if such a measure is stipulated in the general terms.
- (4) If a subscriber submits an objection or complaint to the amount of a bill or to execution of individual rights of users according to this Law and the law regulating competition protection, the operator shall not act in accordance with paragraph 1 of this Article until the final decision is reached by the Agency, where the subscriber made payment for the undisputed amount of the bill, or the amount corresponding to the average value of the last three undisputed bills.
- (5) Until the final decision by the Agency, operator, provider of communications services, shall not cancel provision of network functions or services to the user that are not subject to the dispute,

if technically feasible. Restriction related to access and use of an emergency number “112” shall in particular be prohibited.

- (6) If a subscriber did not pay for the undisputed part of the bill within the given deadline, or continues to breach contractual obligations from Subscriber Agreement, or does not act in accordance with the final decision by the Agency, operators may permanently disconnect such a subscriber, or terminate provision of all services. Subscriber Agreement shall, from that moment on, be considered unilaterally cancelled, regardless of whether the subscriber’s line was disassembled and terminated or the subscriber has only the software blockade of all calls.
- (7) From the moment of termination of providing services referred to in paragraph 6 of this Article, operators shall not have the right to request payment of monthly subscription fee or any other claims, except those incurred during the period the Subscriber Agreement was in force.

Article 116 (Restrictions on the Side of Operators)

- (1) In cases when required for reasons of an upgrade, regular maintenance or in the events of repairing of faults in the network, operators, providers of publicly available electronic communications services, may, without prior consent from the subscriber, temporarily restrict or interrupt access to their services, provided they issue a notification at least one day in advance to the media, the Agency and the authorities responsible for implementation of secret surveillance. In cases of greater extent of restrictions and longer restrictions, an operator – services provider shall be obliged to notify the subscribers as well.
- (2) Restrictions or interruptions referred to in paragraph 1 of this article shall last for so long as required for purposes of performing relevant works, or repairing the faults.
- (3) An operator performing software or hardware upgrade in its network or implementing the new services that influence lawful interception of communications shall be obliged to inform the bodies responsible for lawful interception thereof at least three months prior to putting new services into operation.

Article 117 (Right to Reimbursement)

- (1) Operators, providers of electronic communications services, shall define the rules of reimbursements to users, in case there is a discrepancy with regard to quality and availability of their service in relation to parameters stipulated.
- (2) Subscribers shall have the right to request operators, providers of communications services to be reimbursed for any direct or indirect loss occurred through faults in operator or service provider’s performance
- (3) Operators, providers of services, shall not be obliged to reimburse the damage to users, if poor quality of the service provided or restrictions of access to network or service occurred due to circumstances to which operators could have no influence.

Article 118 (Public Influence)

- (1) The Agency and other state bodies shall be obliged to take appropriate account of the opinions of interested public, when shaping electronic communications market and adopting regulation that will significantly influence such market.

- (2) Deadline for collection of opinion from the interested public shall be publicly announced and shall not be shorter than 30 days. Upon expiration of this deadline the opinions shall be published in the Agency's web site or web site of another body, with clear clarifications on accepted and unaccepted suggestions from the public. Information and data of confidential nature shall not be published on the web site.

CHAPTER X
PROTECTION OF ELECTRONIC COMMUNICATIONS

Article 119
(Confidentiality of Communications)

- (1) Concept of confidentiality of communications, in this Law, shall apply to:
 - (1) the content of communications;
 - (2) the user data
 - (3) traffic data and location data relating to communications
 - (4) unsuccessful attempts to establish a communication
- (2) All forms of surveillance, taping, or storage of communications content and data, or interruption and surveillance thereof, by other persons, without consent from user of such communication, are hereby prohibited, except in cases where it is necessary for the purpose of conveyance of a message (fax message, electronic mail, voice mail, SMS messages), or when there is a legal authorization according to articles 125 and 126 of this Law.
- (3) The use of public electronic communications networks to store data or gain access to information and data stored in subscribers' or users' terminal equipment, shall be permitted in cases where the subscriber or user were provided with information of the purpose of processing and storage of such data, and when the subscriber or user were given an opportunity to refuse such possibility.
- (4) Exceptionally, paragraph 3 of this article shall not be applied to storage or access exclusively used for sole purpose of facilitation and provision of transmission of contents via electronic communications network.
- (5) Operators of public communications networks and services, their agents, employees, representatives, and other parties under their responsibility, shall be obliged to protect the confidentiality of communications, which obligation shall survive the cessation of the activities in which they were obliged to protect such confidentiality.
- (6) Subscribers or users may record communications, but they shall be obliged to inform the sender or recipient of the communication thereof or adjust the operation of the recording device so that the sender or recipient of the communication is informed of its operation.
- (7) Prohibition referred to in paragraph 2 of this Article, shall not be applicable to taping of communication and related data on the traffic within legal business practise used for purposes of evidence of commercial transactions or other business communications, upon the user's explicit request or within organizations receiving emergency calls for the purpose of registration, identification and handling thereof.

Article 120
(User Data)

- (1) Operators providing public communications networks' services shall be obliged to register subscribers of their services of fixed telephony and users of their services of mobile telephony (both pre-paid and post paid) and internet.

- (2) Registration in the meaning of the paragraph 1 of this Article shall imply recording of the following user data: name and surname or title of the company subscriber and its organizational form; identity number for natural persons, and tax and registration numbers for legal entities; address of the user: allocated user number, i.e ID of a user
- (3) Operators providing public communication network services, may keep records on the following data for their subscribers: academic, scientific or occupational title of the user – at his request, activity of the user – at his request; on the basis of payment, additional data, provided that this does not affect the interest of third parties
- (4) Data referred on user may also be used for other purposes exclusively upon user's explicit consent: preparation, concluding, execution and termination of Subscriber Agreement; billing of services and for the needs of responsible state bodies in accordance with this Law.
- (5) Operator shall be obliged to store record data on users within Subscriber Agreement duration and at least one year more, from the day of termination of service providing possibility.
- (6) The way of registering users of services of public communication networks and other issues referring to this operator obligation, shall be regulated by the Ministry.

Article 121
(Traffic Data)

- (1) Traffic data relating to subscribers and users processed and stored by a provider of publicly available electronic communications services must be erased or made anonymous after expiration of five years' period and when there is no need for storing data in the sense of Article 126 of this Law.
- (2) Traffic data required for billing and interconnection payments may be processed only until the end of the claims expiry period, with informing users on the purpose and deadlines of processing such data.
- (3) Operators of public communications networks and services may, for the purpose of marketing services and value added services, process traffic data to the extent and duration proportionate to requirements of such service, and on the basis of prior consent from the user to whom such data are related to and if the user has the right to withdraw the consent at any time.
- (4) The rights, from paragraphs 2 and 3 of this Article, shall be restricted to persons, employed with the operator, responsible for billing, expense accounting, traffic analysis, customer objections, fraud detection, electronic communications services marketing, or provision of value added services, and restricted to the extent that is necessary for conducting such activities.

Article 122
(Identification Restrictions)

- (1) The operators of public communications networks and services offering calling line identification shall be obliged to:
 - 1) Offer the calling user, before each call, to use the possibility, using simple means and free of charge, of preventing the presentation of the calling line identification.
 - 2) Provide a subscribers being called, using simple means and free of charge prevent the identification for all incoming calls, with a reasonable use of this option.
- (2) The operators of public communications networks and services offering calling line identification, shall be obliged to enable the subscriber being called, to use the possibility, using simple means, of rejecting the incoming call, before establishment thereof, when calling line identification is prevented by the user or subscriber dialing the number.

(3) The operators of public communications networks and services offering identification of the line that is connected, it shall be obliged to enable the called user, to use the possibility, using simple means and free of charge, of preventing the identification of that line – identification of the calling number.

(4) Notwithstanding provision from paragraphs 1, 2, and 3 of this article, an operator may suspend the measure of line identification prevention:

- 1) Temporarily, upon a request from a user requesting to trace malicious and nuisance calls. The operator shall process, store and make available data on identification of the user calling, in accordance with a special Law
- 2) in accordance to a written request from state bodies, including ambulance, police, army and fire department services, for purpose of responding such calls, regardless of the lack of subscriber's consent.
- 3) upon a request from a state body, for purposes of processing and storing data on identification, in accordance with Articles 126 and 127 of this Law.

Article 123 (Location Data)

- (1) Operators of public communications networks and services, may process location data other than traffic data, in the event this data is rendered anonymous or with a prior consent from the user, to the extent and in duration necessary for provision of added value services. Prior to obtaining consent from the user or subscriber, an operator shall introduce them with the type of location data that will be processed, and which is not traffic data, as well as on duration of processing and possibility of forwarding such information to third persons. Operator shall provide the possibility for the users to at any time withdraw their consent for processing this data.
- (2) In the conditions when users or subscribers have consented to the processing of location data other than traffic data, they shall have the possibility, using simple means and free of charge, of temporarily refusing the processing of such data on the occasion of each connection to the communication network or each transmission of a communication.
- (3) Processing the location data, other than traffic data, may only be allowed to persons authorized by the operator or provider of public communications services or by third party providing value added service, and the processing must be restricted to the minimum extent that is necessary for the provision of the value added service.
- (4) Exceptionally from paragraphs 1, 2 and 3 of this Article, an operator shall be obliged to store location data listed in Article 127 of this Law for the needs of responsible state authorities.

Article 124 (Unsolicited Communication)

- (1) The use of automated voice systems, without human intervention (call automated machine), fax machines or electronic mail (e-mail), for making calls to the subscribers' telephone numbers for the purposes of direct marketing, may only be allowed if subscribers have given their prior consent.
- (2) It shall not be contrary to the provision from paragraph 1 of this Article, if natural or legal entities receive contact information for electronic mail from their customers for marketing of their own or similar products or services, but they shall be obliged to give their customers the possibility at any time, free of charge and using simple means, of giving remarks or preventing such use of their electronic contact information.
- (3) Electronic communications for the purposes of marketing, except in cases referred to in paragraphs 1 and 2 of this Article, shall not be allowed without prior consent from the subscriber.

- (4) The sending of electronic mail for the purposes of direct marketing where the identity of the sender is misinterpreted or concealed, or when there is no exact address to which the recipient may send a request that such communications cease, shall be prohibited.

Article 125
(Interception of Communications)

- (1) Operators shall be obliged, at their own expense, to provide appropriate hardware and software enabling lawful interception of communications.
- (2) Operators of public communications networks shall be obliged to provide conditions for legally founded interception of communications upon the receipt of an order of the competent body stating the point in the public network in which interception of communications is to be conducted, along with the data relating to the beginning of such a measure.
- (3) Operators, together with competent bodies, upon the request of which the legally founded interception is conducted, shall be obliged to provide for a permanent record on this activity, and to protect collected information referred to in paragraph 2 of this article as an official secret.
- (4) Responsible state authorities, with consent by the Ministry, shall prescribe conditions related to hardware and software referred to in paragraph 1 of this Article
- (5) Operators shall be obliged to submit the evidence on providing hardware and software referred to in paragraph 1 of this Article to the authority in charge of issuing licenses.

Article 126
(Obligation of Storing Data)

- (1) Operators of public communications networks and services, shall have an obligation to store particular data on traffic and location, and relevant data required for identification of subscribers and registered users, of both legal entities and natural persons, to the extent to which such data was generated or processed by them, in order to ensure that such data is at the disposal of state bodies according to the law.
- (2) Obligation of storing information, defined in the Article 127 of this Law, shall also be applied to data concerning unsuccessful calls (connection is successfully made, but did not result in answering or there has been a network management intervention) if such data is generated and processed, in case of telephony services, or logged, in case of internet services, by the operator.
- (3) Obligation referred to in paragraph 1 of this Article, shall not be pertaining to, and shall not be applied to data revealing the contents of electronic communications.
- (4) Procedures and conditions that are required to be followed and terms to be complied with, in order to gain access to stored data and collect the data are regulated by responsible persons referred to in article 125 paragraph 4 of this Law containing: an obligation of operators to, at their own expense provide appropriate equipment and interface, which enables the stored data to be collected, periods for storing the information, which shall not shorter than six months or longer than two years, from the day when the communication took place; permitted delay, from the moment of receipt of the request, until data stored are transferred to a responsible body; keeping statistical information on an annual level, other than personal information, on data successfully forwarded to a competent body, on cases of delays in forwarding, and on requests that could not have been granted;

- (5) Operators and competent bodies for enforcement of this Law, shall regulate their relation by means of a special Agreement, define the type of services.

Article 127
(Categories of Data to be Stored)

- (1) Operators of electronic communications networks and services, shall store the following data categories:

(I) Data required for finding and identification of a source of a particular communication in relation to fixed and mobile telephony networks (calling phone number; name and address of the subscriber or authorized user; in relation to internet access, Internet e-mail and Internet telephony (assigned user ID(s)); user ID and phone number assigned to any incoming communication to the public telephony network; name and address of a subscriber or authorized user to whom the Internet Protocol (IP) address was assigned, user ID or phone number assigned during the communication;

2) Data required for identification of destination of a particular communication: in relation to fixed and mobile telephony networks (dialed number(s) phone numbers that were dialed, and, in cases of using additional services like call forwarding or call transfer, the number or numbers to which the call was forwarded; name(s) and address(es) of subscriber (s) or authorized user(s); in relation to internet access, Internet e-mail and Internet telephony (user ID or telephone number of the intended receiver(s) of Internet phone call; name(s) and address(es) of subscriber (s) or authorized user(s) and user ID of the intended receiver of communication;

3) Data required for identification of date, time and duration of a communication: in relation to fixed and mobile telephony networks (date and time of initiation and ending communication, duration of communication); in relation to internet access, Internet e-mail and Internet telephony: date and time of log-in and log-off service of Internet access, based on a certain time zone, along with the IP address, either dynamic or static, assigned by provider of service of Internet access to a certain communication, and used ID of a subscriber or authorized user; date and time of log-in and log-off service of Internet e-mail or the service of Internet telephony, based on a specific time zone;

4) Data required for identification of the type of communication: in relation to fixed and mobile telephony networks (telephony service used); in relation to internet access, Internet e-mail and Internet telephony (Internet service used);

5) Data required for identification of communication equipment of a user or identification of purpose of such equipment: in relation to fixed telephony networks (calling and called telephone numbers); in relation to mobile telephony (calling and called telephone numbers; international Mobile Subscriber Identity (abr. IMSI) of the calling party and the party being called; international Mobile Equipment Identity (abr. IMEI) of the calling party and the party being called; IMSI of the called party; IMEI of the called party); in case of anonymous pre-paid services, date and time of initial activation of the service and location name (Cell ID) from which the service was activated; in relation to internet access, Internet e-mail and Internet telephony (calling number for dialing (dial-up) access; and digital Subscriber Line (DSL) or other termination point of communication originator;

6) Data required for identifying location at mobile communication equipment: location name (Cell ID) at the beginning of communication and the data by which cells geographic location is identified through names of their locations (Cell ID) during any change of location of International Mobile Equipment (abr. IMEI) during the period for which the information on communication was stored.

Article 128
(Safety of Stored Data)

- (1) Operators of public communications networks and services shall be obliged to:
 - 1) Provide for stored data to be of the same quality and degree of safety and protection as for the relevant data in the network;
 - 2) Provide for, by means of appropriate technical and organizational measures, stored data to be protected from illegal or random damaging, random loss or modification, unauthorized or illegal storage, processing, access or disclosure;
 - 3) Provide, by means of appropriate technical and organizational measures, stored data to be accessed only by persons with special authorization;
 - 4) Destroy stored data at the end of the period stipulated for storage, with exception of those that have been accessed and which are saved.
- (2) Supervision of enforcing measures referred to in paragraph 1 of this Article shall be performed by an independent body for protection of personal information.

CHAPTER XI
SUPEVISION

Article 129
(Supervision of Application of the Law)

The supervision of implementation of this Law, other regulations and acts adopted based on this Law, international agreements and conventions signed by Montenegro, shall be conducted by Ministry in charge of electronic communications and the Agency, within the scope of its competences defined by this Law.

Article 130
(Supervision of Agency's Activities)

- (1) Supervision of legality and purposefulness of the Agency's activities shall be conducted by the Ministry according to this Law.
- (2) Supervision referred to in paragraph 1 of this Article, shall not be applied to such activities by the Agency that concern its regulatory function and regulatory rules.

Article 131
(Inspection Supervision)

Inspection supervisions activities from the Article 129 of this Law shall be performed by the Inspector for Electronic Communications of the Ministry in accordance with this Law and Law on Inspector Supervision

Article 132
(Competences and Authority of the Inspector)

- (1) In addition to authorization determined by the Law on Inspector Supervision, the inspector shall be responsible and authorized to:

1. Temporarily prohibit provision of electronic communications services, if these are provided without due registration and approval by the Agency and specify measures for preventing further unlawful performance of activities.
2. Prohibit operation of a radio station which use radio frequencies with no due approval and as per need, specify measures to prevent its operation – by means of sealing or temporary confiscation of the equipment or parts thereof, for which a certificate on confiscation shall be issued in writing.
3. Restrict or prohibit operation of an electrical device that, contrary to regulations, causes electromagnetic interference, and impedes operation of electronic communications networks or equipment.
4. In cooperation with Market Inspection and Internal Affairs bodies, prohibit and disable sale or exploitation of electronic communication or terminal equipment which is produced or imported to local market, if such equipment does not meet the technical and exploitation and other terms of use prescribed by the Law.
5. Control coordination of systems of electronic communication operation, according to a Government's regulation, in a state of emergency.

Article 133
(Expert Supervision)

- (1) Supervision over activities of operators registered with the Agency shall be performed by the Agency through Supervisor for Electronic Communications.
- (2) Supervisors for Electronic Communications shall perform the activities of supervision independently, as specified in the procedure defined by the Law on Inspection Supervision and this Law.
- (3) Supervisors of Electronic Communications shall fulfill the terms prescribed by the Law,

Article 134
Responsibilities and Authorization of Supervisor

- (1) In the procedure of expert supervision, the supervisors for electronic communications shall:
 - 1) control fulfilment of conditions for use of frequencies and numeration based on the approvals issued
 - 2) control conformity of operation parameters with specified norms and standards: RR systems, broadcasting transmitters, television transmitters, repeater stations, fixed and mobile radio stations, base stations for mobile telephony and stations of radio networks for wireless access, optical and wire transmission systems, cable distribution systems, exchanges for fixed and mobile telephony, local subscriber networks, subscriber equipment, terminal and other equipment.
 - 3) Determine origin and location and identify a source of obstructing emissions and interferences in radio frequency spectrum
 - 4) Work on timely identification of radio stations using frequencies without approvals opposite to the Law.
 - 5) Examine conformity of working parameters of emission units with specified norms, for purposes of identifying their impact on the environment
 - 6) Determine conformity with regard to specified norms for quality of service, in providing Universal Service, and declared parameters of quality of other types of services
 - 7) Determine the security of networks and services of electronic communications, and compliance with provisions of the Law, concerning confidentiality and secrecy of communications.
 - 8) Control validity of tariff bodies and regularity of application of approved, and publicly declared tariffs,
 - 9) Control applied measures of protection of devices and equipment

10) Control technical and other documentation (records on condition of systems, licenses, permits, approvals, attests, etc.)

(2) Supervisor for electronic communications shall be authorized to:

1. Issue an order to operators, providers of services, or the owner of electronic communication equipment, to enable access to company premises and access to equipment, for reasons of expert examination, and to make available the necessary information, technical and other documentation, and for the inspector to, as per need, execute particular testing and measurements on their equipment in accordance with technical resources available.
 2. Undertake appropriate measures, and order an operator, to , within a reasonable deadline, eliminate deficiencies, if in the course of exploitation of electronic communications networks or provision of electronic communications services, this Law is applied incorrectly, or the regulation adopted on the basis of this Law and Acts adopted by the Agency and regulation and standards in force
 3. Order an operator to eliminate deficiencies in operation of a radio station that is not functioning in accordance with the Law, or temporarily ban putting it into operation if interferences produced are significant and obstruct proper operation of other electronic communications equipment.
 4. In case of need, issue order to control-measurement centres in order to monitor and establish sources of interference and to obtain measuring data, necessary for performing expert supervision.
 5. 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 in a timely manner.
- 3) Authorized persons of the Agency may at the spot, at the operator's, perform control and collection of data necessary for fulfilment of activities under the competence of the Agency.
- 4) Persons from paragraph 3 of this Article shall be obliged to maintain secrecy of all information on operator's activity, obtained during their work, as business secret, personal data, secret data etc.)

Article 135

(Proving Capacity of a Supervision Body)

Inspectors and supervisors of electronic communications, in the course of inspection or expert examinations, shall prove capacity of a supervision body by means of an identity document issued by the Ministry.

Article 136

(Legal Remedies)

Against decisions issued in the procedure of inspection supervision, or in the procedure of expert supervision, a complaint may be made to the Ministry within 8 days from the day the decision was presented to the subject of supervision. Complaint against a decision shall not suspend execution of the decision.

CHAPTER XII: PENAL PROVISIONS

Article 137

(Offences)

(1) Any legal entity shall be fined not less than 10fold and not more than 300fold of the minimal salary in Montenegro for an offence if:

1. does not submit data to the Agency (article 18 paragraph 1)
2. does not submit request to the Agency prior to commencement of changes in or termination of providing public communications networks or providing public communications services (paragraph 2, Article 31);
3. electronic communications networks or electronic communications are not provided within a legally separated company or separate accounting is not kept for activities in relation to provision of public electronic communications networks or provision of services (paragraph 2, Article 35);
4. Broadcast of a particular program imposed by the Agency is not provided (Article 38)
5. obligation with regard to publishing of Reference Offer for providing interconnection or operator access is not fulfilled within 90 days from the day of issuing the decision (Article 44 paragraph 2);
6. obligations with regard to provision of essentially equal conditions and quality when providing interconnection or operator access to all operators providing essentially equal services, including the operators being a part of its company or related company are not fulfilled (Article 45 paragraph 2);
7. Obligations with regard to providing transparency of its wholesale or internal accounting prices are not fulfilled (Article 46 paragraph 2);
8. obligations with regard to enabling operator access to specific network elements and accompanying infrastructure, including access network and usage thereof are not fulfilled (Article 47 paragraph 2);
9. the operator with Significant Market Power, due to lack of efficient competition or for the purpose of its prevention, maintains excessively high prices or excessively low difference between retail and wholesale prices, not proving cost orientation of prices added an acceptable income rate on investments (Article 48 paragraph 2 and 4);
- 10 obligations with regard to provision of access to all other operators' publicly available phone services and cost based prices for operator access and interconnection related to carrier selection and pre selection are not fulfilled (Article 49 paragraph 1 and 3);
- 11 obligations with regard to regulation of retail services are not fulfilled (Article 50 paragraph 1);
12. obligations with regard to provision of a complete minimum set of leased lines or only a part thereof are not fulfilled (Article 51 paragraph 2);
13. Obligations with regard to provision of universal service on the territory of Montenegro are not fulfilled (Article 54, paragraph 1)
14. Radio frequencies are used without a valid Approval (paragraph 1, Article 65);
- 15 numbers are used without a valid Approval (Article 89);
16. Appropriate equipment and adequate interfaces are not provided at own expense (article 125 paragraph 1)
17. Upon an instruction received, lawful interception of communications is not initiated, or lawful interception is not performed in a way, to the extent and in duration specified in the instruction (paragraph 2, Article 125);
18. Permanent registry of interception is not provided and data are not retained (paragraph 3, Article 125);
19. data categories, required for: detection and identification of the source of a particular communication at fixed and mobile telephony networks; identification of destination of a particular communication at fixed and mobile telephony networks; identification of date, time and duration of a particular communication at fixed and mobile telephony networks; identification of the type of communication at fixed and mobile telephony networks; identification of the user's communications equipment or determination of the purpose of such equipment at fixed and

mobile telephony networks and identification of a location at mobile communications equipment (article 127 paragraph 1, points 1, 2, 3, 4, 5 and 6) are not retained

(2) Responsible employee of a legal entity shall be fined for an offence from the paragraph 1 of this Article in the amount not less than 1/2 and not more than 20fold of the minimal salary in Montenegro

(3) Physical entity shall be fined for an offence from the paragraph 1 of this Article in the amount not less than 3fold and not more than 10fold amount of the minimal salary in Montenegro.

Article 138

(1) Legal entity shall be fined not less than 10fold not more than 250fold of the minimal salary in Montenegro if:

1. it is not negotiating joint use of electronic communications infrastructure or not responding to request within 15 days from the day of submission thereof (paragraph 2, Article 33);
2. It is not submitting updated information on its capacities in the interest of joint use of infrastructure upon request of the Agency, at least once in three months (paragraph 4, Article 33)
- 3 is not negotiating operator access and interconnection of its networks, not publishing updated information in the interest of conduction of negotiations or not timely responding the request for interconnection or operator access (paragraph 1 and 2, Article 34)
4. Not protecting confidentiality of all data exchanged when concluding contract (paragraph 4, Article 34);
5. Access to the interface of an application program or electronic program guide is not provided, or the aforementioned is not provided under just, reasonable and non-discriminatory conditions (paragraph 3, Article 36);
6. Specified requirements with regard to operation of digital radio and television user equipment are not met (paragraph 4, Article 36);
7. Its systems with conditional access to services of digital television or radio are not provided to a public communications network operator full control on service providing (paragraph 1, Article 37);
8. Technical services are not provided under reasonable and non-discriminatory conditions (paragraph 2, Article 37);
9. Separate accounting is not kept for systems with conditional access (paragraph 3, Article 37);
10. Data from the Universal directory or data provided by the Universal directory enquiry are not regularly updated (paragraph 3, Article 53);
11. Not providing access to information from the joint database in the extent that corresponds to the Universal Directory Operator's needs (Article 53 paragraph 4)
12. Prices of services, provided within the Universal Service, are not equal on the whole territory of Montenegro (paragraph 2, Article 55);
13. not offering special tariffs or special packages for users with low income or special needs, which are different from those provided for those purposes under commercial conditions (paragraph 4 Article 55);
14. Apart from general obligations related to rights of users, not defining unbundling of a price and general services providing conditions or not providing subscribers with one or more possibilities to control their spendings (subparagraph 1 and 2 paragraph 6 Article 55)
15. Contribution is not paid to the universal service provider within the time frame and in the amount specified by the Agency's decision (paragraph 3, Article 58);
16. the Agency is not informed on revenues from provision of public communications networks or performing public communications services within the time frame specified in this Law (paragraph 4, Article 58);

17. The Agency is any way obstructed while inspecting the information and evaluating revenues (paragraph 5, Article 58 and paragraph 6, Article 32);
18. No employees have been designated by means of a Decision, who are obligated to enable uninterrupted provision of universal service during a strike (Article 59);
19. plan of measures for providing services in emergency situations is not prepared, or such measures are not implemented during the total duration of circumstances for which these were prepared, unless so is not possible due to force majeure (paragraph 1, Article 60);
20. Uninterrupted access to emergency numbers and using thereof in extraordinary circumstances is not provided (paragraph 3, Article 60);
21. in cases of network failure, war or state of emergency and natural or other disasters, the function of advantage is not performed or adjustment in accordance to the request by the competent body is not carried out (paragraph 2, Article 60 and paragraph 1, Article 61);
22. Access points for function of advantage are used contrary Government decision (Article 61, paragraph 2)
23. The right to use radio-frequencies is transferred without prior consent from the Agency, (Article 79);
24. The right to use numbers is transferred without prior consent from the Agency (Article 94)
25. Prices of interconnection in porting numbers are not cost oriented (paragraph 3, Article 98);
26. free of charge dialing of emergency numbers or appropriate line identification) are not provided to subscribers (paragraph 1, Article 100);
27. Transparent information on valid prices and tariffs and general terms and conditions of access and use of public communications services is not published according to the regulations (Article 102, paragraph 2);
28. Subscriber contract is not prepared in accordance with the Agency act (Article 104, paragraph 2)
29. Number portability is not enabled to subscribers (paragraph 4, Article 110);
30. Technically and organizationally, measures are not taken in such a way that provides own network and services security (paragraph 1, Article 112);
31. Subscribers and the Agency are not warned in due time in case of possibility of influence on communication safety (paragraph 2, Article 112),
32. access to its services is restricted or subscriber is disconnected and subscriber agreement terminated or other measures are taken for reasons not specified in contract or general terms and conditions or the measures are discriminatory or not proportionate to the breach (paragraph 1, Article 115);
33. Subscriber is not warned in reliable manner on breach of obligation from subscriber contract (paragraph 2, Article 115)
34. Action is taken before final Decision of the Agency although subscriber interposed i.e. lodged complain on level of customer bill (Article 115, paragraph 4)
35. subscriber is deprived for services not being a subject of dispute before Agency final decision if this it is possible or access and use of Unique European Number for Emergency calls "112" are limited (Article 115, paragraph 5),
36. Users and the Agency are not informed (Article 116 paragraph 1)
37. subscriber is not informed in a clear manner on purpose of data processing and at the same time does not offer an option for such processing to be refused or compliance to be expressed (paragraph 3 Article 119);
38. electronic communication confidentiality is not protected (Article 119, paragraph 4)
39. User data are used out of allowed range (Article 120, paragraph 4)
40. Traffic data are not deleted or made impersonal upon termination of a connection (paragraph 1, Article 121)
41. Prior consent from a subscriber or user is not obtained (paragraph 3, Article 121);

42. Location data is not processed in a prescribed manner (Article 123, paragraph 1);
43. The right of a user or subscriber to temporary denial of processing data is breached (paragraph 2, Article 123)
44. Traffic data is processed by non authorized persons (paragraph 3, Article 123);
45. Electronic mail address of a buyer is used for direct sale, although the buyer refused such direct sale (paragraph 1, Article 124);
46. Electronic communications are used for direct sale without prior consent from the subscriber (paragraph 3 Article 124)
47. During direct sale by using electronic communications false identity or fake address is used (paragraph 4, Article 124);
48. Prescribed procedures for data retention are not performed (paragraph 4, Article 126).

(2) Responsible employee in a legal entity shall be fined for an offence from the paragraph 1 of this Article not less than ½ and not more than 15fold of the minimal salary in Montenegro.

(3). Physical person shall be fined for an offence from paragraph 1 of this Article, not less than 3fold and not more than 8fold of the minimal salary in Montenegro.

Article 139

(1) Legal entity shall be fined for an offence not less than 10fold and not more than 200fold of the maximum fine if:

1. electronic communications networks and terminal equipment for connection to public communications network do not fulfill prescribed technical conditions (Article 25, paragraph 1)
2. electronic communications networks for broadcasting services of digital television are not planned in such a way that they can be used for broadcasting wide-screen services and television programs (paragraph 1, Article 36);
3. format for distribution TV digital programs to TV wide-screen receivers from is not preserved (paragraph 2, Article 36)
4. it does not use radio frequencies in accordance with the Decision on assignment of radio-frequencies (Articles 65 paragraph 1);
5. it does not use numbers or series of numbers from Plan on Numeration in accordance with the Decision on assignment of numbers or series of numbers (Article 89);
6. subscribers from other countries are not enabled to dial non-geographic numbers, if so is technically feasible and commercially viable (Article 101);
7. subscriber agreement does not contain all the required elements (paragraph 2 and 3, Article 104) ;
8. Subscribers are not informed on change of terms defined by subscriber agreement at least 30 days before the changes occurred (paragraph 5, Article 104);
9. subscribers are not provided with the prohibition on entering their data in the Directory, by their request (paragraph 1, Article 111)
10. subscribers are not free of charge informed on the purpose and further use of printed or electronic subscriber directory, which contains their personal information (paragraph 2, Article 111);
11. entrance into Directory or free of charge personal information checking and deleting and informing on that possibility is rejected (paragraph 1 and 2, Article 111)
12. Correct charging of the services based on itemized bill is not performed and users' insight in those data, i.e. issuing free of charge issuing bill is not is not enabled (paragraph 1, Article 113)

13. upon submitting every bill, basic level of bill itemization is not offered free of charge to subscribers or bill does not contain all necessary data (paragraph 2 and 3, Article 113);

14. higher level of bill itemization is not announced in General Terms and Conditions or higher price for higher level of bill itemization is calculated comparing to real costs (paragraph 5, Article 113),

15. provide use of collected user data contrary to prescribed conditions (paragraph 4, Article 121)

16. prohibition of calling line identification is not provided although it was prescribed (article 122)

17. prior to their consent, user or subscriber is not introduced to type of location data, that shall be forwarded to third parties, purpose and duration of processing location data (paragraph 1, Article 123);

18. subscriber or user are not offered an option to, at any time, in a simple manner and free of charge, temporarily deny processing of location data, other than traffic data on the occasion of each connection to communications network or each traffic transfer (paragraph 2, Article 123);

19. automated voice systems, facsimile devices or electronic mail are used for direct marketing without prior consent from the subscriber (paragraph 1, Article 124);

(2) Person responsible employed by the legal entity shall be fined for an offence from the paragraph 1 of this Article not less than $\frac{1}{2}$ and not more than 10 fold of the minimal salary in Montenegro.

(3) Physical person shall be fined for an offence from the paragraph 1 of the Article not less than 3fold and not more than 6fold of the minimal salary in Montenegro.

Article 140

(1) Legal entity shall be fined not less than 10fold and not more than 150fold of the minimal salary in Montenegro if:

1. cost of displacement, change or extension of objects and means are not covered (paragraph 2, Article 29)
2. the Agency is not informed about the changes of information within the specified time limit (paragraph 7, Article 31),
3. inscription in Universal directory by its users is not enabled or data from joint base for Universal directory purpose are not put at disposal and access to Universal directory enquiry service in other countries is not provided (paragraph 1,2,3 and 4, Article 53);
4. information on quality of services are not submitted to the Agency on regular basis i.e. at least once a year updated data on QoS are not published (paragraph 2, Article 56);
5. radio-frequencies are used without Decision on Approval on radio-frequencies (paragraph 1, Article 65)
6. not acting in accordance with the Approval on use of radio frequencies or terms of their usage or frequencies using without Authorization have not been used in the prescribed manner (paragraph 2, article 65 and Article 75 and 76)
7. Agency has not been informed on change of data of holder of Approval (paragraph 3, Article 75 and paragraph 2, article 91),
8. radio or telecommunications terminal equipment is connected to public communications network in way contrary to the Law and other regulations (paragraph 1, Article 85);
9. within technical abilities, identification of incoming call is not provided to emergency services (paragraph 2, Article 100);
10. users request for connection of radio or telecommunication terminal equipment is not met although it meets the requirements (paragraph 1, Article 105)
11. appropriate and updated information on quality of services are not published or submitted to the Agency (paragraph 3, Article 106);

12. in providing electronic communications service, which enables diverting calls, subscribers are not enabled to, for an individual call or connection, free of charge and by using simple means prevent automatic call diverting by third persons to their terminal (Article108);

(2) Responsible employee of a legal entity shall be fined for an offence from the paragraph 1 of this Article not less than ½ and not more than 10fold of the minimal salary in Montenegro.

(3) Physical person shall be fined for an offence from the paragraph 1 of this Article not less than 3fold and not more than 5fold of the minimal salary in Montenegro.

CHAPTER XIII

TRANSITIONAL AND FINAL PROVISIONS

Article 141

(Existing Licenses)

- (1) Valid Licenses issued by the Agency for Telecommunications and Postal Services and the Broadcasting Agency shall be made compliant with provisions of this Law within nine months from the day of entry into force of this Law.
- (2) Valid licenses issued by the Agency for Telecommunications and Postal Services shall be made compliant with provisions of the article 125 of this Law within six months from the day of entry into force of this Law.
- (3) Licenses for procurement and installation of radio stations, licenses for work of the radio stations and temporary license for radio stations according to the Law on Telecommunications and the Broadcasting Agency shall be valid until the expiration of the period for which they were issued..
- (4) Existing operators, performing activities on the basis of licenses issued by the Agency for Telecommunications and Postal Services and Broadcasting Agency, shall continue to perform activities in compliance with those Acts until issuance of approvals and other Acts in accordance with this Law.
- (5) Holders of licenses issued by the Agency for Telecommunications and Postal Services and shall be entered into the registry of operators and shall be issued approvals for use of limited resources, in conformity with existing licenses.
- (6) Holders of licenses issued by the Broadcasting Agency shall be entered into the registry of operators and shall be issued approvals for use of frequencies, in conformity with existing licenses.
- (7) Procedures initiated in accordance with the Law on Telecommunications shall be concluded in accordance with that Law.

Article 142

(Commencement of Activities of the Agency)

- (1) Agency for Telecommunications and Postal Services shall continue its work as Agency for Electronic Communications and Postal Services.
- (2) The Government shall appoint the President and members of the Council of the Agency within 60 days as of the day this Law enter into force.
- (3) Council shall appoint the Director of the Agency within 30 days from the day of constitution of the

Council.

- (4) Council for ECP shall adopt the Statute of the Agency within 30 days from the day of appointment of the President and members of the Council
- (5) Agency for Electronic Communication and Postal Services shall overtake a part of the assets, associated software of the Broadcasting Agency and employees employed in conducting activities that come out of the Agency's authority within 90 days.

Article 143

Operators with Significant Market Power

1. The Agency shall conduct a market analysis and identify operators with significant market power during the course of 1 year from the day this Law enters into force.
2. Until operators according to the analysis referred to in paragraph 1 of this article are identified it shall be considered that:
 - (1) Crnogorski Telekom is an operator with significant market power in the markets of fixed voice telephony network and services, including the market of access to network for data transfer and leased lines.
 - (2) All telephone network operators are operators with significant market power in markets of termination of calls in their respective networks
 - (3) Broadcasting Center is an operator with significant market power in the market of distribution services and emission of broadcasting signals.

Article 144

(Universal Service Implementation)

The Agency shall, no later than 6 months from the day this Law enters into force, adopt sub-laws referred to in article 8 of this Law and initiate tender procedure for selection of operator of Universal Service.

Article 145

(Minimum Set of Leased Lines)

- (1) The Ministry shall, no later than 6 months from the day this Law enters into force, adopt a bylaw as stipulated in the Article 51 of this Law.

Article 146

(Other activities in application of provisions of this Law)

- (1) Unless otherwise determined in this Law, operators, the Agency and the Ministry shall, within 12 months from the day this Law enters into force, conduct technical modifications or conduct activities that shall enable the Articles of this Law to be applied.
- (2) The operators shall, within 12 months submit to the responsible bodies all necessary data according to this Law.

147 Fees

(1) Annual regulatory fees determined in accordance with the Law on Telecommunications and Broadcasting Law shall be charged in the amount calculated beforehand, until **December 31, 2008** or to the end of accounting period for which the fee was paid in advance.

Article 148

Adoption of Regulations

- (1) The Ministry shall, no later than six months from the day this Law enters into force, adopt regulation on obligatory payment of fees in the amount corresponding to actual costs according to Articles 84 and 97 of this Law
- (2) The Ministry shall, no later than a year from the day this Law enters into force, adopt the other regulations according to this Law.
- (3) The Agency shall, no later than six months from the day this Law enters into force, adopt regulations according to this Law.
- (4) Until the day the regulations adopted based on this Law enter into force, regulations adopted based on the Law on Telecommunications and Broadcasting Law shall be applied, unless contrary to this Law.

Article 149

Cessation of Validity

- (4) The day this Law enters into force, the Law on Telecommunications (Official Gazette RCG br 59/00), article 2 paragraph 1 subparagraph 2, 5 and 9; article 3 paragraph 1 subparagraph 4, 5 and 7; article 4 paragraph 1 item 2-14, 16 and 20-34; article 6 paragraph 1 item 2; article 7 paragraph 1 subparagraph 1, 2, 4, 6, 7, 9, 15 and paragraph 2; article 8 paragraph 1; article 21 paragraph 1 subparagraph 1, 2, 5, 6, 7 and 8, article 26 paragraph 1 subparagraph 4, article 28 paragraph 1 subparagraph 2, 3 and 4; provision of articles 31, 32, 36 to 46, article 53 paragraph 2 subparagraph 1 and 2 and 3 in the part related to emission technology, article 60, 61, 62, 63, 64, 66, 67, 68, 69, 71, 72, 73, chapter 6 Business Organization for Transmission and Emission of Broadcasting Signals, articles 80-85, articles 89, 90, 91, 115, 116, 119 and 130 of the Broadcasting Law (Official GazetteRCG, No 15/02, 62/02 i 56/04), shall cease to be valid.

Article 150

Entry into Force

- (1) This Law shall enter into force within 8 days as of the day of publishing in the Official Gazette of Montenegro.