

## **ACT No. 83 of 04 July 2003: Act relating to electronic communications (The Electronic Communications Act)**

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## **Electronic Communications Act**

cf. Annex XI, No. 5cf (Decision No. 676/2002/EC), No. 5cg (Directive 2002/77/EC, No. 5cj–cm (Directive 2002/19/EC, Directive 2002/20/EC, Directive 2002/20/EC), No. 5ha (Directive 2002/58/EC) to the EEA Agreement.

### **Chapter 1. Introductory provisions**

#### **Section 1-1. *Purpose***

The purpose of the Act is to secure good, reasonably priced and future-oriented electronic communications services for the users throughout the country through efficient use of society's resources by facilitating sustainable competition, as well as fostering industrial development and innovation.

#### **Section 1-2. *Substantive scope***

The Act applies to activity connected with electronic communications and associated equipment. Management and use of the electromagnetic spectrum and numbers, names and addresses are included. The same applies to all emissions of electromagnetic waves from electronic communications and all inadvertent emission of electromagnetic waves that may interfere with electronic communications. Content services that are invoiced together with electronic communications services are included.

The King may by individual decision or regulations determine what shall be considered to fall within the scope of the Act.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 1-3. *Geographic scope***

The Act also applies to Norwegian ships and aircraft and to installations and devices of whatever nature connected to petroleum activity on the continental shelf or for utilisation of renewable energy resources at sea within the scope of the Norwegian Offshore Energy Act.

The King shall determine to what extent the Act applies to Jan Mayen, the Dependencies and the Antarctic and lay down the rules for exceptions and special provisions resulting from international agreements to which Norway is party or that are necessary because of local circumstances.

The King may limit the Act's geographic scope and lay down provisions on the Act's application to foreign-registered ships in Norwegian territorial waters and foreign-registered aircraft in Norwegian airspace.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 1-4.** *Authority under the Act*

The Authority under the Act is the King, the Ministry and the Norwegian Post and Telecommunications Authority. The King may determine the allocation of functions within the Authority, and may determine that other public or non-public entities shall have authority in limited areas under the Act.

#### **Section 1-5.** *Definitions*

1. *electronic communications*: communication using an electronic communications network.
2. *electronic communications network*: system for signal transmission that enables the transfer of sound, text, pictures or other data using electromagnetic signals in free space or by cable where radio equipment, switches, other connection and routing equipment, associated equipment or functions are included, including network components that are not active.
3. *electronic communications service*: service that wholly or mainly comprises conveyance of signals in electronic networks and that is normally provided for a fee.
4. *public electronic communications service*: electronic communications service that is accessible to the public or intended for use by the public.
5. *public telephone service*: electronic communications service that, directly or indirectly, originates or receives national or national and international voice connections through a number or numbers in a national or international telephone number plan, and which is accessible to the public or intended for use by the public.
6. *associated facility*: physical infrastructure and other devices or elements connected to an electronic communications network and/or an electronic communications service, that allow and/or support, or can support an electronic communications service via this type of network and/or service.
7. *associated services*: service connected to an electronic communications

network and/or an electronic communications service, which allows and/or supports the offer of services via this type of network and/or service, or which has the potential to do so.

8. *network termination point*: connection point between an electronic communications network and terminal equipment.
9. *radio equipment*: product or parts of a product that intentionally emit or receive electromagnetic waves transmitted in free space, except equipment that solely receives broadcasting.
10. *harmful interference*: interference that puts a radio navigation service or another emergency or safety service in danger or which significantly reduces the quality of, obstructs or repeatedly interrupts radio communication operated in accordance with specified requirements.
11. *transmission capacity*: electronic communications service in the form of permanently established capacity for signal transmission as an input for service production or as transmission between different geographic addresses for end-users.
12. *terminal equipment*: product or parts of a product that may be used for electronic communications and that are intended for direct or indirect connection to a network termination point in an electronic communications network.
13. *interconnection*: function that facilitates conveyance of traffic between providers so that end-users may communicate with each other and have access to public electronic communications services independently of provider connection.
14. *user*: any natural or legal person that uses an electronic communications network or service for own use or as a factor input to production of other services.
15. *end-user*: any natural or legal person that concludes an agreement on access to an electronic communications network or service for own use or hire.
16. *provider*: any natural or legal person that offers others access to an electronic communications network or service.
17. *co-location*: shared use of infrastructure and other *associated* facilities that are used or can be used to locate equipment for electronic communications.
18. *premium rate services*: content service paid for in advance or in arrears that is offered over electronic communications networks and that is invoiced together with an electronic communications service.
19. *Mobile-restricted zone*: a limited geographic area in which communication in electronic communications networks used for public mobile communication are affected or obstructed using legal identity capture and/or jamming.
20. *identity capture*: manipulation of communication in electronic communications networks used for public mobile communication via the receipt and

transmission of radio signals with the intent of detecting electronic identities of terminal equipment.

21. *jamming*: active transmission of radio signals with the intent of obstructing specific radio communication systems or parts thereof to operate within the scope of a limited geographic area.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

## **Chapter 2. General provisions**

### **Section 2-1. *Duty to register***

The Authority may issue regulations on the duty to register for a provider of an electronic communications network or public electronic communications service if it is necessary to maintain supervision of the market.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 2-2. *Measurement of and information on quality***

The provider, with service obligation pursuant to the first paragraph of Section 5-1, shall measure and notify the quality of the network and service offered to end-users.

The Authority may impose providers of public electronic communications services not covered by the first paragraph to measure and notify the quality of the service offered to end-users in accordance with the criteria, definitions and measuring methods determined by the Authority.

The Authority may issue regulations on measurement and information.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 2-3. *Requirements for networks, services, associated equipment and facilities***

The Authority may impose requirements for electronic communications networks, services, associated equipment, facilities and the use of standards to ensure interoperability between networks and services, quality, efficient utilisation of capacity in networks that are used by more than one provider, to protect life and health or avoid harmful interference.

The Authority may issue regulations or individual decisions on the matters governed by the first paragraph, including ordering providers to take action to prevent and limit the quantity of bulk electronic messages (“spam”), malicious software (“malware”) and similar.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 2-4.** *Terms of supply and agreement*

Providers of public electronic communications services to end-users may be ordered to prepare and publish terms of supply for this type of offer and offer end-users agreements for public electronic communications services, including pre-paid public electronic communications services.

Providers of public telephone services must, upon entry, change or termination of the agreement, ensure that the end-users are unambiguously identified. The provider must be able to document the identity check.

Providers of public electronic communications services must notify end-users of changes to or termination of the agreement. Changes to or termination of the agreement can at the earliest enter into force one month after the notification is sent to the end-user. End-users who do not accept the new agreement conditions may cancel the agreement with effect from the time the changes enter into force at no additional cost. In the notification to the end-user, information shall be given on the right to cancel the agreement.

Agreements between providers of public electronic communications services and end-users must not be binding for a period exceeding 12 months. In particular circumstances, longer commitment periods may be agreed, however, not longer than 24 months. Conditions on commitment periods imply that the provider gives the end-user a financial advantage. The provider must, free of charge, provide the end-user with an operator locking code when the commitment period expires. End-users who do not accept new terms and conditions for subscription agreements with a commitment period may cancel the agreement in accordance with the third paragraph when the changes are to the disadvantage of the end-user.

The third and fourth paragraphs may be waived outside consumer relations.

Providers of public telephone services shall offer agreements that expire after 12 months.

The Authority may issue regulations on terms of supply and agreements with end-users, including unambiguous identification of end-users.



Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 2-4a.** *‘ Obligations to ensure connection to numbers*

Providers of electronic communications networks and services must ensure that end-users, unless B-subscribers have selected to limit access from A-subscribers localised within specific geographic areas, can receive a connection to all numbers:

1. in the national numbering plan, including non-geographic numbers.
2. in the European +3883 numbering system (European Telephony Numbering Space (ETNS)).
3. In the +800 numbering system (Universal International Freephone Numbers (UIFN))
4. in the national numbering plans for other EU countries, including non-geographic numbers

The obligation under nos.2 to 4 does not apply if the obligation is not technically or financially feasible for the provider.

The Authority may order the provider of electronic communications network or services to block access to numbers or services where there is a breach of Chapters 2 and 3 of the Norwegian Marketing Control Act. The Authority may also order the provider to hold back relevant interconnection revenues or other relevant revenues.

The Authority may issue regulations on conveyance of calls in accordance with the first paragraph, on blocking and sanctions in accordance with the second paragraph, and on the conveyance of numbers to and from international geographic areas other than those listed in the first paragraph.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 2-5.** *Permitted restrictions on use*

The Authority may order providers to implement restrictions on use of electronic communications networks and services in the interest of national security or other important societal consideration.

Providers shall implement necessary restrictions on use in emergency situations that involve serious threats to life or health, safety or public order or danger of sabotage against networks or services.

Providers may immediately disconnect radio and terminal equipment when it is necessary in the interest of communication security or the network's integrity and provided the provider offers an alternative solution without delay. The costs of providing an alternative solution shall be borne by the provider.

The Authority may give providers permission to deny connection or to disconnect radio and terminal equipment that does not satisfy requirements in accordance with Section 8-1, or that causes harmful interference or serious damage to the network.

Restrictions on use as a result of default of payment do not require permission from the Authority.

In situations other than those mentioned in the second, third and fifth paragraphs implementation of restrictions on use requires permission from the Authority.

The Authority shall be notified immediately in the event of disconnection and other restrictions on use. Providers at whom the restrictions on use mentioned in the fifth paragraph are directed shall be notified at least one month before disconnection. Such provider shall immediately notify the affected providers and end-users. In special cases, the Authority may inform the affected providers and end-users of the notified restrictions of use in an adequate manner.

Restrictions on use pursuant to the second paragraph shall be terminated as soon as the emergency situation is over, and in accordance with the third and fourth paragraphs as soon as the end-user establishes that the necessary permission has been obtained or illegal radio and terminal equipment is disconnected from the network.

The Authority may issue regulations on restrictions on use and on exceptions to the requirement for permission.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 2-6.** *Calls to the emergency call services and geographic localisation of emergency calls*

Providers who offer end-users an electronic communications service which allows domestic calls to be made to one or several numbers in the national numbering plan, shall ensure that the end-user can make calls to the emergency services' emergency call service.

Calls to the emergency services' emergency call service shall be possible free of charge and without the use of coins, cards, codes or other means of access.

Numbers to emergency call services shall be displayed and readily visible in or by publicly accessible terminals for telephone services.

Providers mentioned in the first paragraph and providers for the electronic communications network used for supply of services mentioned in the first paragraph, shall ensure that telephone numbers, the end-user's name and necessary information for localisation of emergency calls is transferred for all calls to the emergency services at their own cost. The same shall apply even if the end-user has an agreement for a secret telephone number or has blocked the display of the caller's number on equipment of the end-user called.

On request, providers may be given a temporary exemption from the obligation to offer necessary information for geographic location of emergency calls, so-called origin information.

The Authority may issue regulations on calls to the emergency call service, including on the obligation to ensure access using SMS, and on geographic location of emergency calls.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 2-7. *Protection of communication and data***

Providers shall implement the necessary security measures for the protection of communications and data in the provider's electronic communications networks and services. Where there is particular risk for security breach and if a security breach could damage or destroy retained data or infringe data protection for the subscriber or user, the provider shall immediately notify the subscriber or user of this.

Notification to the subscriber or user in accordance with the first paragraph is not necessary where providers can show the Authority that satisfactory technical protective measures have been carried out for the data covered by the security breach.

Traffic data, localisation data and data necessary to identify the subscriber or user shall be deleted or made anonymous as soon as they are no longer necessary:

1. for communication or invoicing purposes
2. to comply with the obligation according to Section 2-7a for retaining data or
3. to comply with other demands laid down in accordance with law.

Any other processing of this type of data requires the consent of the user. The Authority may issue regulations on the protection of communication and data.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013). Amended by Act No. 11 of 15 April 2011 (in force from the date determined by the King).

**Section 2-7a.** *Obligation for retention of data*

Inserted by Act No. 11 of 15 April 2011 (in force from the date determined by the King).

**Section 2-7b.** *Use of cookies*

Retaining information in the user's communication equipment, or gaining access to this, is not permitted unless the user is informed on which information is processed, the purpose of this processing and who will process the information and consents to this. The first point is not an obstacle for technical storage or access to information:

1. exclusively for the purpose of transferring communication in an electronic communications network
2. which is necessary to supply an information societal service in accordance with the user's explicit request.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

**Section 2-8.** *Facilitating statutory access to information*

Providers of electronic communications networks that are used for public electronic communications services and providers of such services shall operate networks and services in a manner that ensures statutory access to information about end-users and electronic communications are secured.

The provider's operating expenses connected with fulfilling this duty to facilitate access to information will be met by the State in regard to those additional costs resulting from providing these services.

The Authority may issue regulations on this duty in accordance with the first paragraph, including the duty to retain traffic data for a specified period. The Authority may also issue regulations in relation to the provider's requirement for coverage of costs as a result of support to foreign governments that fulfils obligations in relation to the agreements to which Norway is a party.

Amended by Act No. 52 of 22 June 2012 (in force 1 January 2013 pursuant to Decree No. 1208 of 14 December 2012).

**Section 2-9.** *Duty of confidentiality*

Providers and installers have a duty to maintain secrecy regarding the content of electronic communications and third party use of electronic communications, including information on technical systems and procedures. They have a duty to implement measures to prevent others than those to whom the information applies from obtaining knowledge of such information. Beyond the lawful purposes of processing, nor may the information be utilised in their own activities or in service or work for others, with the exception of statistical information on network traffic that is rendered anonymous and does not provide information on systems or technical solutions.

The duty of confidentiality pursuant to the first paragraph also applies to anyone performing work or services for providers of electronic communications networks or services, installers, technical control bodies or the Authority, also after the individual has ceased performing such work or service.

The duty of confidentiality is not an obstacle to information being given to the prosecuting authority or the police regarding unlisted telephone numbers under an agreement or other subscription information, as well as electronic communications addresses. The same applies to testimony in court. The duty of confidentiality shall not be an obstacle for information as mentioned in the first paragraph being given to another authority pursuant to law.

A request from the prosecuting authority or the police for information as described in the third paragraph shall be complied with unless special circumstances make this inadvisable.

The Authority may issue regulations on the duty of confidentiality, on exception on the duty of confidentiality of efficient routing of traffic, on the extent of the exception pursuant to the third paragraph and the duty of notification pursuant to the fourth paragraph. Any other statutory duty of confidentiality applies in addition to this section.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013). Amended by Act No. 11 of 15 April 2011 (in force from the date determined by the King).

## **Section 2-10. *Security and preparedness***

Providers shall offer electronic communications networks and services with the proper security for the users in peacetime, crises and war. Providers shall maintain the necessary preparedness and entities important to the community shall be prioritised when necessary. Providers shall communicate important messages from the State authority. The Authority may make individual decisions ensuring that the provider implements measures that give proper security and necessary preparedness. The provider shall cover the costs for compliance with this.

The Authority may make individual decisions or enter agreements for the provider to implement measures to ensure fulfilment of the national requirement for security, preparedness and functionality in the electronic communications network and services in addition to the requirements of the first paragraph. The additional costs the provider incurs in association with this type of measures will be reimbursed by the State on the basis of satisfactory documentation provided by providers.

Providers may be refused access to the market if this is necessary in the interest of public security, health or other special circumstances.

The Authority may order providers to enter into cooperation with other national or international enterprises when this is required by international agreement.

The Authority may issue regulation regarding compliance with obligations in accordance with this paragraph, including financing. In its regulation, the Authority may determine that the provision applies to parties other than providers.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

**Section 2-11.** *Ensuring continuity of supply in the event of provider bankruptcy etc.*

Providers shall make plans that ensure continuity of supply to their own customers for a minimum of two weeks in the event of bankruptcy, the opening of debt settlement negotiations or as a consequence of suspension of payments. Such plans may comprise insurance schemes, agreements on cooperation between providers, private reserve schemes or similar.

The Authority shall ensure statutory compliance of plans and may set requirements regarding their content. The Authority may relieve providers of electronic communications networks and services from the duty to prepare plans.

A provider shall inform the Authority of any petition for debt settlement negotiations or bankruptcy that the provider sends to the District Court. The District Court shall immediately inform the Authority of debt settlement negotiations or bankruptcy proceedings that are opened in relation to a provider.

When, as a consequence of the commencement of bankruptcy proceedings in regard to a provider, a danger arises of cessation of operations, in special cases the Authority may, to the extent that it is necessary to safeguard the users' communications, order continued operation for up to two weeks, including ordering the estate of bankruptcy to take over all or part of the debtor's current agreements. In consideration of whether such an order shall be given, account shall be taken of

whether important societal interests will suffer as a consequence of a cessation of operations. Account is also to be taken of the estate's finances. The same applies if the commencement of debt settlement negotiations pursuant to the Bankruptcy Act would otherwise lead to cessation of operations.

Operation ordered pursuant to the fourth paragraph shall have no effect on the estate's right to choose whether it will assume the debtor's agreements pursuant to Section 7-3 of the Satisfaction of Claims Act, or on the estate's liability pursuant to Section 7-4 of the Satisfaction of Claims Act, after the expiry of the order. Contractually determined notice periods and time limits for notice in Section 7-6, first paragraph, of the Satisfaction of Claims Act are not an obstacle to an order being given to assume current agreements for a period as stated in the fourth paragraph of this section.

The Authority may issue regulations on the plans pursuant to the first paragraph, exceptions to the duty to prepare plans and ensuring continuity of supply in situations as mentioned in the fourth paragraph.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 2-12. *Premium rate services***

The Authority may issue regulations on premium rate services, including complaint- and supervision procedures for such services and the funding of such procedures.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

#### **Section 2-13. *Maritime accounting authorities***

Providers of clearing and payment services in connection with the use of electronic communications services from ships (maritime accounting authorities) must register with the Authority in order to be able to provide clearing and payment services to Norwegian ships.

The Authority may issue regulations on registration of maritime accounting authorities and requirements for the practice of these, including orders to furnish security for any liability the enterprise may incur while carrying out the activity, duration and cessation and limitation of the number of operations that may be registered or be approved.

#### **Section 2-14. *Installers***

Providers of installation, maintenance or connection of electronic communications networks or equipment for electronic communications shall be qualified and licensed by the Authority. The same applies to anyone who, for business purposes, performs installation, maintenance or connection for own use.

Owners and providers of access to electronic communications networks shall use installers as mentioned in the first paragraph for installation, maintenance and connection of networks.

The Authority may revoke a licence if, in their operations, installers do not comply with requirements determined in or pursuant to this Act.

The Authority may issue regulations on requirements for installers.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 2-15.** *Secret numbers*

On request from the end-user, the provider shall offer the service secret numbers.

The Authority may issue regulations on the secret number service and may, in individual cases, exempt the provider from the obligation to offer the service.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

## **Chapter 3. Significant market power**

### **Section 3-1.** *Significant market power*

A provider has significant market power when the provider individually or jointly with others has economic strength in a relevant market affording the provider the power to behave independently of competitors, customers and consumers to an appreciable extent. Significant market power in one market may result in a provider having significant market power in a closely related market.

The Authority may issue regulations on significant market power.

### **Section 3-2.** *Relevant markets*

The Authority shall define relevant product and services markets and geographic markets in accordance with the EFTA Surveillance Authority's recommendations on relevant product and services markets in the area of electronic communications.



When the Authority defines markets pursuant to the first paragraph that deviate from previously defined common European markets, the consultation procedure in Section 9-3 shall be followed.

**Section 3-3.** *Market analysis and designation of providers with significant market power*

The Authority shall carry out market analyses in accordance with the EFTA Surveillance Authority's guidelines for market analyses and assessment of significant market power in the area of electronic communications. The Authority will designate, maintain or rescind designation of a provider with significant market power on the basis of market analyses.

The Authority shall notify market analyses according to the time limits stated in Section 9-3, second paragraph.

The Authority may issue regulations on market analyses.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

**Section 3-4.** *Obligations on providers with significant market power*

A provider who has significant market power shall be subject to one or more specific obligations that follow from Sections 4-1, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9 and 4-10.

In special cases the Authority may impose obligations on a provider who has significant market power beyond those that follow from Sections 4-1, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9 and 4-10. In such cases the EFTA Surveillance Authority shall be consulted.

Obligations pursuant to the first and second paragraphs that are imposed on the individual case shall be appropriate to promote sustainable competition as well as facilitate national and international market development. The Authority may amend imposed obligations.

The Authority may issue regulations on obligations imposed on a provider with significant market power.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

**Section 3-5.** *Voluntary separation of the access network*

Providers with a significant market power shall inform the Authority if the provider plans to transfer control of all or significant parts of its access network to other ownership or to business units organised in a manner corresponding to functional separation in accordance with Section 4-9a. Providers shall also inform the Authority of changes to such plans and of the final outcome of the process.

Notification of planned transfer in accordance with the first paragraph must be given in such time that it allows the Authority to assess the effects of the planned separation for regulation of the relevant market. The Authority shall conduct market analyses of the affected markets.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

## **Chapter 4. Access etc.**

### **Section 4-1. Access**

The Authority may order a provider with significant market power to meet any reasonable request to enter into or amend an agreement on access to electronic communications networks and services.

In considering whether a request is reasonable an assessment shall be undertaken inter alia of the provider's interest in control over its own infrastructure against the need to give others the access necessary to be able to offer competing services. In the assessment of what is necessary, account shall be taken of whether in the light of market trends it is technically and commercially possible to install or use competing infrastructure. In the assessment of whether a request is reasonable, account shall also be taken of:

1. available capacity
2. the provider's investment and investment risk, including any public support and grant schemes.
3. sustainable competition
4. the need to sustain the network's integrity
5. intellectual property rights and
6. establishment of pan-European services.

A provider with significant market power shall document and justify a refusal of a request for access.

If necessary to ensure end-to-end connectivity, the Authority may impose access obligations on any provider. Such obligations may include an obligation to

conclude an agreement. Orders pursuant to this paragraph shall follow the procedures in Sections 9-2 and 9-3.

The Authority may issue regulations on carrier pre-selection and carrier selection using a prefix. The Authority can also set technical and administrative conditions for access.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 4-2. *Interconnection***

Any provider of access to electronic communications networks and services has the right and obligation to negotiate with other providers on interconnection for the provision of public electronic communications services.

If necessary to ensure end-to-end connectivity, the Authority may impose interconnection obligations on any provider. Such obligations may include an obligation to conclude an agreement. Orders pursuant to this paragraph shall follow the procedures in Sections 9-2 and 9-3.

Within those areas in which the provider has significant market power, the provider shall meet any reasonable request to enter into or amend an agreement on interconnection. In the assessment of whether a request is reasonable, an evaluation shall be undertaken in accordance with Section 4-1 second paragraph. A provider with significant market power shall document and justify rejection of a request for interconnection.

The Authority may issue regulations on interconnection.

#### **Section 4-3. *Access to radio and television***

Providers of access control services for digital radio and television shall meet any reasonable request for access from content suppliers. The terms of access shall be objective, reasonable and non-discriminatory, be based on objective criteria and be publicly available. Providers shall document and justify refusals of requests for access. The same requirements may be imposed on a provider of other functions that may limit access to digital radio and television.

The Authority may make exceptions to the requirement in the first paragraph if a market analysis shows that a provider does not have significant market power in the relevant market, and the access to digital radio and television services will not be reduced.

The Authority may issue regulations on access control services and other functions that may limit access to radio and television, including

determining requirements for transmission and reception of digital television services and television programmes and impose requirements on the holder of intellectual property rights to products and access control services.

#### **Section 4-4. *Co-location***

The Authority may order a provider who obtains the right of compulsory purchase in accordance with Section 12-3 to give other providers without corresponding rights access to co-location.

The Authority may impose an obligation on any cable owner for shared use of the wiring in buildings, or to the first concentration or distribution point where this is located outside the building, when duplication of this type of infrastructure is difficult to implement or is not socioeconomically efficient.

The Authority may impose shared utilisation of infrastructure on providers when considerations of effective use of resources, the interest of health, the environment or safety or other societal interests warrant that duplication of infrastructure should be avoided.

The Authority may impose on a provider with significant market power an obligation to meet reasonable requests for co-location within the market in which the provider has significant market power, when this is appropriate in order to promote sustainable competition.

A provider with significant market power in the market for the products full and shared access to the fixed access network shall offer co-location to other providers following reasonable request for such access.

In the assessment of whether a request is reasonable pursuant to the fourth and fifth paragraphs an assessment shall be performed pursuant to the second paragraph of Section 4-1. Providers with significant market power shall document and justify a refusal of a request for co-localisation.

Orders pursuant to the first to fourth paragraphs shall follow the procedure in Section 9-2.

The Authority may order providers and owners of private electronic communications networks to provide information on type, availability and placement of associated installations.

The Authority may issue regulations on co-location.

Amended by Acts No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 4-5. *Information and support systems***

The Authority may impose on a provider with significant market power an obligation to meet any reasonable request to provide access to information and support systems if such access is necessary for the requester to be able to supply competing services. In the assessment of whether a request is reasonable, an evaluation shall be undertaken in accordance with Section 4-1 second paragraph.

Providers with significant market power in the market for the products full and shared access to fixed access network shall provide access to information and support systems.

The Authority may issue regulations on access to information and support systems.

Amended by Acts No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 4-6. *Publication and reference offers***

The Authority may order a provider with significant market power to publish specified information or prepare and publish reference offers for electronic communications networks and services. The obligation to publish specified information may inter alia include:

1. accounting information
2. technical specifications, including interfaces used at the network termination points, as well as which standards are used
3. network properties
4. prices
5. other terms and conditions for supply and use.

The Authority may require that offers pursuant to the first paragraph are sufficiently unbundled into individual elements with associated terms based on market needs so that the user is not bound to accept services, functions or outputs that have not been requested.

Providers with significant market power in the market for the products full and shared access to fixed network shall prepare a reference offer for access to the fixed network. The offer shall be sufficiently unbundled so that the requester does not pay for services, functions or benefits that have not been requested.

The Authority may issue orders on where, how and on what terms the information shall be made publicly accessible, as well as order changes in the reference offer.

The Authority may issue regulations on publication and reference offers.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 4-7. *Non-discrimination***

The Authority may order a provider with significant market power to offer interconnection and access to external providers on non-discriminatory terms.

The Authority may order a provider with significant market power to offer interconnection and access to other providers on the same or equivalent terms and of the same or equivalent quality as provided for internal operations, subsidiaries or partnerships.

On request internal utilisation shall be reported to the Authority, cf. Section 10-3.

The Authority may issue regulations on non-discrimination.

#### **Section 4-8. *Structural and accounting separation***

The Authority may order a provider with significant market power to put in place accounting separation between different business areas or between specified activities connected to interconnection and access.

A provider who provides access to access control systems for digital radio and television shall put in place accounting separation between this and other activities. If, after market analysis, cf. Section 3-3, the Authority finds that such an order is not proportionate, the obligation for accounting separation shall be removed.

A provider with a business with sole or special rights in areas other than electronic communications may be ordered to organise his offering of electronic communications networks used for public electronic communications services and similar services to be separated out for accounting purposes or into a separate legal entity.

The Authority may order a provider who is vertically integrated to publish wholesale prices, as well as internal prices.

The Authority may issue orders on what accounting methods and principles shall be used.

Providers shall make financial information available on request, cf. Section 10-3.

The Authority may issue regulations on structural and accounting separation.

#### **Section 4-9. *Price and accounting controls***

The Authority may impose pricing obligations on a provider with significant market power for access and interconnection in cases where the provider may use its market position to the detriment of the end-users in the market by maintaining a disproportionately high price level, or by subjecting a competing provider to a margin squeeze.

The Authority may, pursuant to the first paragraph, impose on a provider the use of specific methods of price control. The Authority may order a provider to document that the prices are in accordance with the obligations.

The Authority may impose on a provider the use of specific systems for cost accounting as mentioned in the first paragraph. A description of the systems imposed for cost accounting, including an overview of the main categories for costs and what cost allocation rules are used, shall be made public. Confirmation that the cost accounts are in accordance with the system laid down for cost accounting shall be prepared by an external auditor and shall be published annually.

The Authority may issue regulations on price and accounting controls.

#### **Section 4-9a. *Functional separation***

The Authority may impose on vertically integrated providers with significant market power to introduce functional separation when:

1. important and persistent competition problems or market failures in wholesale sales exist in markets for access products
2. imposed obligations have not led to sustainable competition
3. there is little or no opportunity for a sustainable, infrastructure-based competition to be achieved within a reasonable time horizon and
4. functional separation would be the most effective tool for remedying the current competition problems or market failure.

Functional separation refers to activities related to relevant access products and services being separated into a operationally independent business entity, separated from the provider's other areas of activity. The separated business unit shall offer

access products and services to all providers, including the vertically integrated provider's other business units, on the same terms and conditions, with the same deadlines and using the same systems and processes.

Orders pursuant to the first paragraph shall follow the procedures in Sections 9-2 and 9-3.

The Authority may issue regulations on functional separation.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 4-10.** *Regulation of end-user services*

When obligations pursuant to Sections 4-1 to 4-9 and 4-11 will be insufficient for facilitating sustainable competition, the Authority may impose terms and conditions for providing end-user services on a provider with significant market power in the markets for end-user services. The terms and conditions may inter alia include publication, reference offers, non-discrimination, price and accounting controls and prohibition of unreasonable product bundling.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

**Section 4-11.** (Repealed by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).)

**Section 4-12.** (Repealed by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).)

#### **Section 4-13.** *Duty of confidentiality regarding access and interconnection*

Each provider is obligated to keep confidential information received from another provider prior to, during and subsequent to negotiations on access or interconnection agreements. Nor shall such information be used internally in own operations for a use other than the one intended when the information was submitted.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

#### **Section 4-14.** *International roaming on mobile networks*

The Authority may issue regulations on international roaming on mobile networks, including the imposition of price obligations on providers.



Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

## **Chapter 5. Universal service obligation and special social obligations**

### **Section 5-1. *Universal service obligation***

The Authority may enter into an agreement with or designate by order one or more providers of electronic communications networks and services to secure provision of the following services under the universal service obligation:

1. access to public telephone services and digital electronic communications networks throughout the country
2. public pay telephones and other access points to the public telephone service.
3. directory enquiry services
4. telephone catalogue
5. special services for the disabled and other end-users with special needs.

The Authority may impose detailed requirements regarding the content of the obligation pursuant to the first paragraph, inter alia on prices to end-users, geographic unit prices, quality requirements for the services, measurement of quality and information.

The Authority may issue regulations on the universal service obligation.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 5-2. *Financing of the universal service obligation***

When a provider pursuant to Section 5-1 incurs an unreasonable burden by meeting a universal service obligation and the provider so requests, the costs may be met by a financing fund. Together with the requirement for costs recovery the provider must forward a statement of the net costs connected with meeting the universal service obligation.

The Authority may order the provider to help to fund a financing fund. Competitive tendering shall be carried out if obligatory universal service is funded by a financing fund.

The Authority may issue regulations on the calculation of costs related to meeting the universal service obligation, a financing fund and obligations for providers of electronic communications networks and services to contribute to a financing fund or in another way to share the costs of meeting the universal service obligation.

### **Section 5-3. *Special societal obligations***

The Authority may enter into an agreement with or designate by order one or more providers of electronic communications networks and services to ensure that the following special societal obligations are met:

1. provision of the emergency and safety services (coastal radio) to meet the obligations within the coastal radio's area of coverage that Norway has undertaken through international agreements
2. services in connection with Svalbard.

Additional costs of agreements or orders pursuant to this section shall be met by the State.

The Authority may issue regulations on special societal obligations pursuant to the first paragraph.

### **Section 5-4. *Transfer of the access network***

Providers with service obligation pursuant to the first paragraph of Section 5-1 shall inform the Authority if the provider plans to transfer control of all or significant parts of its access network to another owner. Providers shall also inform the Authority of changes to such plans and of the final outcome of the process.

Notification of planned transfer in accordance with the first paragraph must be given in such time that allows the Authority to assess the effects of the planned sale of the services in accordance with Section 5-1, first paragraph, no. 1.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

## **Chapter 6. Spectrum management and orbital slots**

### **Section 6-1. *National frequency plan***

The Authority shall establish the national frequency plan for use of the electromagnetic spectrum. The national frequency plan shall promote the efficient use of society's resources and the objective of avoiding harmful interference and shall be determined within the framework of international agreements to which Norway is party.

The national frequency plan shall be publicly available.

### **Section 6-2. *Permission to use frequencies***

The frequencies in the electromagnetic spectrum may not be used unless licensed by the Authority.

Allocation of frequencies shall be done via open, objective, transparent, non-discriminatory and proportionate procedures. When allocating frequencies, efficient use of society's resources through sustainable competition, free movement for services, technology and service-neutrality and harmonised use of frequencies must be taken into consideration.

The Authority may place proportionate and non-discriminatory requirements on the selection of technology for electronic communications services in order to avoid harmful interference, protect lives and health, ensure service quality, ensure effective use of frequencies or to fulfil all general considerations presented in the fifth paragraph.

The Authority may place proportionate and non-discriminatory requirements on what type of electronic communications service can be offered based on the frequency resources made available.

The Authority may demand, inter alia, that an electronic communications service is offered in a more closely restricted frequency band to ensure life and health, frequencies for important societal broadcasting purposes, effective use of frequencies and to promote social interdependence. In consideration to the protection of emergency and security services and in special cases to ensure other general considerations, the Authority may deny use of other than one defined electronic communications service in a particular frequency band.

The Authority may refuse to grant licences pursuant to the first paragraph when such refusal is owing to considerations stated in the second paragraph.

The Authority may issue regulations on the use of frequencies.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013). Amended by Act No. 2 of 11 January 2008 (in force from the date determined by the King).

### **Section 6-2a. *Mobile-restricted zone***

The Police may, without permission from the Authority, use frequencies allocated to others, if the conditions exist for identification of communication systems in accordance with the second point in Section 216 a, third paragraph, Section 216 b, second paragraph (c) or Section 222 d of the Norwegian Criminal Procedure Act, or the terms and conditions for the use of enforcement measures with preventative objectives in accordance with section 17 d of the Norwegian Police Act. The National Security Authority may, in exceptional cases and for a short period of time, use frequencies allocated to others without permission from

the Authority when this is a necessary measure for proper securing of conference rooms, cf. Section 16 of the Norwegian Security Act.

The Police and National Security Authority shall notify the Authority without undue delay once frequencies allocated to others are used. Notification shall state the frequency area, time period and location. The Authority determines, in consultation with the Police or National Security Authority, on whether and if so when the rights holder shall be informed.

The Authority may, in exceptional cases, licence the Norwegian Armed Forces and Police to use frequencies allocated to others, following application, in order to establish a mobile-restricted zone for training purposes. These licences shall be limited in time and only given for closely restricted areas. The Armed Forces may only be awarded licences for exercises within the Armed Force's permanent training areas. Rights holders shall be informed well in advance of the Armed Forces or Police making use of the frequencies allocated to others in relation to this type of licence.

Upon request, the Authorities may licence the Norwegian Directorate for Correctional Services to use frequencies allocated to others for establishing a mobile-restricted zone and in connection with prisons with high security levels. The Authority shall consult the relevant provider.

Frequency use in accordance with the first to fourth paragraphs shall take place in a manner that infringes the rights resulting from frequency licences already allocated as little as possible.

The Authority may issue regulations on mobile-restricted zones.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 6-3.** *Conditions attached to frequency licences*

Conditions may be attached to frequency licences for the electromagnetic spectrum. Such conditions may only include:

1. statement of services, network type or technology for which the frequencies shall be used
2. actual and efficient use of the frequencies
3. geographic and population-related coverage
4. technical and operational matters to avoid harmful interference and to limit the risk posed by electromagnetic radiation
5. the duration of the licence, taking consideration to sufficient reimbursement

- times for the relevant service
6. the right to transfer the licence
  7. fees for licences
  8. individual obligations in accordance with the offer
  9. obligations in relation to relevant international agreements on the use of frequencies
  10. obligations linked to trial operation, research and other experimental use of frequencies.

Upon request, the Authorities may change technology or service-specific restrictions, cf. first paragraph, number 1. Upon request the Authority may remove restrictions in the right to transfer licences, cf. number 6.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 6-4.** *Procedures for limiting the number of frequency licences*

The Authority may limit the number of frequency licences if such limitation is necessary to safeguard the interests of the users and to facilitate sustainable competition. Any limitation of the number of frequency licences shall be done in accordance with the following method:

1. interested parties shall be given the opportunity to comment in accordance with Section 9-2
2. a basis shall be given and published for the decision to restrict the number of spectrum licences
3. interested parties shall be invited to apply for the free frequency licences.

In connection with the advertisement of a limited number of licences, the selection criteria shall be objective, transparent, non-discriminatory and proportionate.

The Authority can, when necessary, grant spectrum licences for specific purposes for the public benefit, including the use in emergency and preparedness services for the Armed Forces and for research purposes without the procedure in the first paragraph coming into use. Directly allocated frequency licences may not be transferred in accordance with Section 6-5. When the Authority considers that there is no longer a need to use directly allocated frequencies, the licence may be withdrawn.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 6-4a.** *Frequency licences for broadcasting*

In frequency bands that are set aside for broadcasting according to the national frequency plan, the Authority, without making use of the procedure in Section 6-4, first paragraph, may grant the frequency licence under objective, transparent and non-discriminatory conditions to enterprises which have access to the setting up and operation of systems for broadcasting, in accordance with Sections 2-1 and 2-2 of the Norwegian Broadcasting Act.

Frequency licences apply for the same geographic area as the licence granted under the Broadcasting Act. Directly allocated frequency licences may not be transferred in accordance with Section 6-5. The Authority may withdraw the licence when allocated frequencies are no longer used in accordance with their purpose or if the licence is annulled under the Broadcasting Act.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 6-5.** *Transfer with the sale or lease of spectrum licences*

The Authority may issue individual decisions that entitle the holder of a licence for use of frequencies in the electromagnetic frequency spectrum the right to transfer the licence via sale or lease.

Before any sale may take place, the holder of the licence shall inform the Authority of the planned transfer. The Authority may order transfers to be carried out in accordance with the procedures laid down, as well as in a manner that safeguards competition and a harmonised use of the frequencies pursuant to the national frequency plan. The Authority may refuse the sale of frequencies to prevent an anti-competitive effect.

The Authority shall publish information regarding transfers due to sale of licences for use of frequencies in the electromagnetic frequency spectrum.

The holder shall inform the Authority of any planned leasing of frequencies that may have a significant impact on competition. The Authority may refuse the lease of frequencies to prevent an anti-competitive effect.

The Authority may issue regulations on the right to access to and conditions for transferring via sale or lease of a licence to use of frequencies. licences to use of frequencies via sale or lease.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 6-5a.** *Frequency hoarding*

Holders of frequency licences shall use the allocated frequency resources effectively and in such a manner as there is no anti-competitive effect.

The Authority may impose a recall, sale or leasing of frequencies in order to prevent an anti-competitive effect.

The Authority may issue regulations on frequency hoarding.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 6-6. *Satellite network***

On request the Authority shall on open, transparent, objective and non-discriminatory terms, implement the registration of satellite networks in the international register.

The Authority may issue regulations on requirements for the request and the registration process.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 6-7. *Recourse for damage caused by space objects***

Insofar as pursuant to international agreement Norway has paid compensation for damage caused by space objects, the Authority may claim recourse against the organisation responsible.

The party that directly requests the launching of a space object must provide security through insurance or a guarantee for an obligation to pay compensation that the Norwegian State may incur pursuant to international agreements to which Norway is party.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

## **Chapter 7. Management of numbers, names and addresses**

### **Section 7-1. *Numbering plans, names and addresses. Authorisation for use***

The Authority determines numbering plans and plans for names and addresses for electronic communications networks and services.

The Authority may authorise the use of numbers, number series, names and addresses in accordance with the plans laid down. Numbers, number series, names and addresses may not be employed without Authority authorisation.

The Authority may designate other public bodies or private entities to administer numbers, names and addresses for specifically limited purposes, including addressing databases.

The Authority may issue regulations regarding authorisation to use numbers, names and addresses and on the use of numbering plans and plans for names and addresses and on detailed terms and conditions for a designated public body or private entity that administers numbers, names and addresses pursuant to the third paragraph.

The competency pursuant to the first to the fourth paragraphs also includes private numbers, names and address resources. The prohibition in the second paragraph, second sentence, does not include private resources.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

### **Section 7-2.** *Orders regarding the use of numbers, names and addresses*

The Authority may issue orders regarding the use and transfer of numbers, number series, names and addresses, as well as for using plans for numbers, names and addresses.

The Authority may issue detailed regulations for such orders.

### **Section 7-3.** *Number portability*

Providers of public electronic communications services shall offer number portability in the form of provider portability at cost-oriented prices.

The Authority may, in individual decisions, impose on the provider to provide compensation to end-users in the case of delayed porting or misuse of porting.

The Authority may issue regulations on number portability, including laying down obligations for providers of public electronic communications services to offer geographic portability and service portability.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 7-4.** *Number, names and address information*

Providers are to report information regarding the use of numbers, names and addresses and associated end-users to providers of directory enquiry services and telephone directories on a continual basis, cf. Section 5-1, first paragraph.



The Authority may issue regulations on requirements for the provider's duties and end-users' rights in regard to directory enquiry services.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

### **Section 7-5. Databases**

The Authority may issue orders regarding the use of databases that are utilised in connection with electronic communications and contain information on or are connected to numbers, names or addresses.

The Authority may designate an organisation to administer such databases.

The Authority may issue regulations on the use of databases and on designation.

## **Chapter 8. Regarding approved equipment, import, sale and use**

### **Section 8-1. Right to possess, sell and use radio and terminal equipment**

Radio and terminal equipment covered by international agreements to which Norway is a party and that meet requirements pursuant to such agreements may be owned, sold and used. Such requirements include requirements for safety regarding life and human health, requirements for electromagnetic compatibility, requirements for efficient use of the electromagnetic frequency spectrum, other requirements in regulations laid down pursuant to the last paragraph and requirements for procedures and labelling. A frequency licence pursuant to Section 6-2 must have been granted if necessary.

The possession, sale and use of radio and terminal equipment that is not covered by agreement pursuant to the first paragraph, requires equipment approval from the Authority. The Authority may deny approval if the equipment does not fulfil the requirements as stated in the first paragraph. Terms and conditions may be imposed for equipment approval or exceptions may be made to the requirement for approval.

The Authority may issue regulations on requirements and terms and conditions for the sale and use of radio and terminal equipment and on registration of dealers of such equipment. Those registered pursuant to a regulation laid down pursuant to this paragraph may import radio and terminal equipment even if the requirements in the first and second paragraphs are not met.

### **Section 8-2. Notified body**

The Authority may issue regulations on requirements for notified bodies.

## **Chapter 9. Rules of procedure**

### **Section 9-1. *Regarding the Public Administration Act***

Unless otherwise determined the Public Administration Act applies to procedures pursuant to this Act.

### **Section 9-2. *Consultation on individual decisions***

All interested parties shall be given the opportunity to comment within a reasonable period of time before an individual decision is made that may have significant effect on the relevant market. The same applies to individual decisions pursuant to Section 4-4, first to fourth paragraphs. The consultation does not apply to individual decisions issued pursuant to Section 9-3, fourth paragraph, or Sections 11-2 and 11-3.

Drafts for individual decisions and comments as mentioned in the first paragraph are public, but nevertheless, information that is under a statutory duty of confidentiality shall be exempted from public disclosure. Section 12 of the Norwegian Freedom of Information Act shall apply accordingly.

This section does not represent any limitation on the obligation to notify pursuant to Section 16 of the Public Administration Act.

Amended by Acts No. 16 of 19 May 2006 (in force 1 January 2009 pursuant to Decree No. 1118 of 17 October 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 9-3. *Consultation procedure***

When a decision pursuant to Sections 3-2, second paragraph, 3-3, 3-4, first paragraph, 4-1, fourth paragraph, and 4-2, second paragraph, may affect trade between the EEA countries, a reasoned draft decision shall be sent to the EFTA Surveillance Authority for consultation with a view to European harmonisation. The EFTA Surveillance Authority and other affected bodies within the EEA may comment on the draft decision within a period of one month after the start of the consultation procedure.

The Authority shall send a reasoned proposal for new market analysis of the relevant market within three years from the date for the applicable decision in the market. In special cases, the deadline may be extended by three years. The deadline for analysis of markets that have not previously been notified to the EFTA Surveillance Authority is two years from the decision made by the EFTA Surveillance Authority on new recommendations for the relevant market.

When the draft decision defines new markets or designates or rescinds designation of significant market power and the EFTA Surveillance Authority finds that it:

1. may affect trade between EEA countries or
2. may comprise a barrier to trade contrary to the EEA Agreement or
3. the EFTA Surveillance Authority is in serious doubt as to whether the draft decision is in accordance with EEA law

the EFTA Surveillance Authority may, within three months of the consultation procedures starting, demand that the draft be rescinded.

When in the interest of safeguarding competition or protecting the users' interests there is a need for an expeditious resolution, a decision may be made without consultation in advance. Such decisions shall, after they have been made, follow the procedure in the first and second paragraphs. The Authority may amend or rescind the decision in the context of the results from the consultation procedure.

This paragraph did not enter into force with the rest of the Act (i.e. 25 July 2003) pursuant to Decree no 279 of 4 July 2003, but from 1 November 2004 pursuant to Decree No 1353 of 15 October 2004. Amended by Acts No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 9-4. *Processing time for applications for spectrum licences***

An application for a spectrum licence shall be decided on without undue delay and no later than six weeks from the application being received. In special cases processing time may be extended to eight months.

For applications that are covered by international legal obligations to coordinate spectrum use with other countries' use of the spectrum, the time limit runs from the time the Authority receives a response to its coordination enquiry.

#### **Section 9-5. *Processing time for applications for the use of numbers***

Applications for permission to use numbers that are reserved for specific purposes shall be decided without undue delay, and no later than three weeks from the application being received. The processing time for numbers that are to be allocated by auction or similar may be extended by up to three weeks.

#### **Section 9-6. *Exchange of confidential information between the Authority and the competition authorities***

Notwithstanding the statutory duty of confidentiality the Authority and the competition authorities shall mutually and on request exchange the information that is necessary in accordance with Article 3(5) of Directive 2002/21/EC on a common framework for electronic communications networks and services.

The authority that receives information in accordance with the first paragraph shall not, without written agreement from the sending authority, provide insight into information that the sending authority has designated exempt from publication at the time of exchange under Sections 12, 14, 15, and 20–26 of the Freedom of Information Act. The Authority shall not, without written agreement from the competition authorities, provide insight into information as mentioned in Sections 26 and 27 of the Competition Act.

Amended by Acts No. 12 of 5 March 2004 (in force 1 May 2004 pursuant to Decree No. 479 of 5 March 2004), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

**Section 9-7.** *Submission of information subject to a duty of confidentiality to another authority*

Notwithstanding the statutory duty of confidentiality the Authority shall submit information to the EFTA Surveillance Authority when a justified request has been made and the information is necessary and appropriate to the performance of tasks imposed by the EEA Agreement. The party to whom the information pertains shall be informed of the onward submission of confidential information if that information was originally obtained from that party.

To fulfil Norway's other contractual obligations to other states or international organisations the Authority may, notwithstanding the statutory duty of confidentiality, provide authorities in other states or corresponding bodies in international organisations with information that is necessary to facilitate the enforcement of Norwegian or the other state's or organisation's regulation of the electronic communications area.

When providing information pursuant to the first and the second paragraphs the Authority shall stipulate conditions that the information may be passed on only with the consent of the Authority and only for the purpose that the agreement encompasses.

The Authority may issue regulations on the provision of information.

**Section 9-8.** *Exceptions to the duty of confidentiality*

Notwithstanding Section 13, first paragraph no 2, of the Public Administration Act, or any contractual duty of confidentiality, the Authority shall make available information on contractual terms to providers of electronic communications

networks or services to the extent necessary to ensure that the requirements for access to electronic communications networks and services are met.

Correspondingly, information obtained in accordance with Section 10-3 may be made public if this could contribute to promoting sustainable competition.

In the event of publication pursuant to the first and the second paragraph, advance written notice shall be given and account shall be taken of the commercial organisation's justifiable interests in protecting trade secrets.

Confidential information on technical devices or solutions shall not be made public.

## **Chapter 10. Supervision**

### **Section 10-1. *Supervision***

The Authority shall monitor compliance with requirements laid down in or pursuant to the Act. The Authority may avail itself of the assistance of others in performing supervisory duties and may make spot-checks and perform measurements and other checks without prior notification.

The Authority may issue regulations on supervision.

### **Section 10-2. *Power to issue instruction***

The Ministry may instruct the Norwegian Post and Telecommunications Authority to consider cases within the scope of the Act.

The Norwegian Post and Telecommunications Authority may not be instructed, either generally or in relation to the particular case, in its consideration of cases pursuant to Sections 3-1 to 3-5, Sections 4-1 to 4-10 and Sections 11-1 to 11-3.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 10-3. *Duty to provide information***

The Authority may demand information that is necessary for the implementation of this Act, decisions made pursuant to the Act, or obligations resulting from international agreements to which Norway has become a party.

On request from the Authority, providers shall submit information, including classified information on electronic communications networks and services and on infrastructure connected to the operating and control systems. This also includes

information on future changes to electronic communications networks and services that may be of significance for services offered to competitors.

The Authority may require information to be submitted in writing or orally by a set deadline. The provider may require a justification for the imposition to supply information.

The duty of confidentiality for providers and installers pursuant to Section 2-9, other legislation, order or agreement, does not preclude the duty to provide information.

The Authority may issue regulations on the duty to provide information.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 10-4. *Cooperation on supervision***

The party subject to supervision has an obligation to ensure that the Authority has unimpeded access to the business and to premises with equipment for electronic communications. Necessary documentation shall be made available to the Authority. The proprietor or his representative may be required to be present during inspections.

#### **Section 10-5. *Internal control***

The Authority may issue orders on the establishment or amendment of systems for internal control to ensure that the requirements laid down in or pursuant to this Act are fulfilled. Documentation shall be prepared showing that the requirements for internal control have been met. The documentation shall be available to the Authority.

The Authority may issue regulations on internal control and on documentation.

#### **Section 10-6. *Orders to take corrective action and make changes, etc.***

The Authority may issue orders to correct or cease unlawful activities and lay down conditions that must be met for the activity to be in accordance with requirements laid down in or pursuant to this Act. This may include the Authority issuing orders to enter into agreements and regarding the terms and conditions in agreements between providers and between a provider and an end-user.

The Authority may take exceptional measures in the event of a breach of the terms of licences, the obligations of a provider with significant market power or obligations of a provider under a universal service obligation and special societal obligation.

The Authority may order measures to prevent radiation that interferes with electronic communications, regardless of the type of device that is causing the interference. The actions ordered shall be proportionate, based on an overall assessment of the parties' interests and the interests of society.

Requirements to take corrective action or make changes pursuant to the first paragraph may be implemented no earlier than one month after the licensee has been informed that the activity is contrary to requirements laid down in or pursuant to this Act. The time limit does not apply to requirements based on technical faults in equipment and installations. Nor does the time limit apply to a licensee who has already previously acted contrary to requirements laid down in or pursuant to law.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

### **Section 10-7. *Coercive fines***

To ensure that requirements laid down in or pursuant to this Act are met, the Authority may set a coercive fine to accrue for each day that passes until the unlawful activity ceases or an order pursuant to this Act has been complied with.

The Authority decides when the fine will begin to accrue. In special cases the Authority may decide to reduce or waive the accrued coercive fine.

The Authority may issue regulations on coercive fines.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

### **Section 10-8. *Revocation***

In the event of a serious or repeated breach of the terms of a licence granted pursuant to Chapters 6 and 7, the Authority may revoke the licence after it has issued an order pursuant to Sections 10-6 and 10-7 and the breach of the terms of the licence has not ceased. In the event of a missing payment of fees or charges pursuant to Sections 12-1 and 12-2, and missing payment of infringement fines pursuant to Section 10-13, the Authority may revoke the licence granted pursuant to Chapters 6 and 7. The Authority may revoke an amateur radio licence when the licensee has acted in violation of the Regulations concerning amateur radio licences.

In the event of serious or repeated breaches of the terms of licences granted pursuant to Chapters 2 and 8, the Authority may revoke the licence after it has issued an order pursuant to Section 10-6 and the breach of the terms of the licence has not ceased.

Any licence granted pursuant to this Act may be revoked immediately if breach of the terms constitutes an immediate and serious threat to safety or human health.

Amended by Acts No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 10-9. Closure**

The Authority may close down electronic communications networks and services and stop the use of radio and terminal equipment when the necessary licence pursuant to this Act has not been granted, when an order pursuant to sections 10-6 and 10-7 has not been complied with or when continued operation or use may involve serious threats to safety regarding life or human health or cause harmful interference. Missing payment of infringement fines pursuant to Section 10-3 may also result in closure.

Closure may occur without prior notice if the activity may involve serious threats to life, human health or safety or cause harmful interference.

The Authority may require support from providers that offer third party access to electronic communications networks and services, and can impose upon these to implement closure. The Authority may require the assistance of the police when this is necessary to implement the closure.

Amended by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

### **Section 10-10. Orders to stop sale and recall of radio and terminal equipment.**

The Authority may issue orders to stop the sale of radio and terminal equipment and to implement measures to recall devices that have been sold, if the devices may pose threats to safety regarding life or human health or electromagnetic compatibility, involve inappropriate use of the electromagnetic spectrum or conflict with other requirements in regulations laid down pursuant to Section 8-1, third paragraph. An order to stop sales and the implementation of recall measures may be directed at the manufacturer, importer or dealer of the radio and terminal equipment.

The Authority may prohibit sale of equipment that is not in accordance with labelling requirements laid down in a regulation pursuant to Section 8-1, third paragraph.

### **Section 10-11. Invalidity**



An agreement that is contrary to this Act or with decisions under the Act is invalid between the parties.

The invalidity applies only insofar as obligations in accordance with this Act are contravened, unless it would be unreasonable pursuant to Section 36 of the Contracts Act to make the rest of the agreement applicable.

### **Section 10-12.** *Reimbursement between providers*

Providers who have been overcharged in respect of a price obligation laid down in or pursuant to this Act may demand reimbursement of the overcharged amount.

After a request by the party entitled to reimbursement the Authority may issue an individual decision ordering reimbursement of overpayments between providers. In considering whether a decision should be made on reimbursement, the Authority shall take into account inter alia the magnitude of the amount of reimbursement and whether in previous periods the service in question was undercharged. The Authority's decision not to issue a decision ordering reimbursement may not be appealed against.

Interest shall be calculated on the claim for reimbursement in accordance with the Act relating to interest on overdue payments. Until the interest on overdue payments begins to accrue, four hundred basis points over Norges Bank's money market rate shall be used as the interest rate.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

### **Section 10-13.** *Infringement fines*

The Authority may impose an infringement fine on natural persons or undertakings if the person, undertaking or anyone acting on behalf of the person or undertaking wilfully or negligently:

1. infringes Section 2-2, first paragraph, Sections 2-4 to 2-10, Section 2-14, Section 3-5, Section 4-1, third paragraph, Section 4-2, first or third paragraph, Section 4-3, first paragraph, Section 4-4, fifth or sixth paragraph, Section 4-5, second paragraph, Section 4-6, third paragraph, Section 4-7, third paragraph, Section 4-8, second or sixth paragraph, Section 4-13, Section 5-4, Section 6-2, Section 6-5a, Section 7-1, second paragraph, Section 7-3, first paragraph, Section 7-4, first paragraph, Section 8-1, second paragraph or Section 10-4.
2. infringes the regulation issued pursuant to Sections 2-1 to 2-9, Section 2-10, sixth paragraph, Sections 2-12, 2-14, 2-15, Sections 4-1 to 4-8, Section 4-14, Section 5-1, Section 6-2, Section 6-5, Sections 7-1 to 7-4, Section 8-1, Section

10-3 or Section 10-5

3. infringes individual decisions laid down pursuant to Sections 2-3 to 2-5, Section 2-7a, second paragraph, Section 2-10, second paragraph, Section 4-1, Section 4-2, second paragraph, Section 4-4, first to fourth paragraphs, Section 4-5, first paragraph, Section 4-6, first, second or fourth paragraph, Section 4-7, first or second paragraph, Section 4-8, first, third or fifth paragraph, Section 4-9 a, first paragraph, Section 4-10, Section 5-3, Section 6-2, Section 6-5, second paragraph, Section 7-2, Section 7-5, Section 8-1, Section 10-3, Section 10-4, Section 10-6 or Section 10-10
4. infringes the decision laid down pursuant to Section 10-3
5. provides incorrect or incomplete information to the Authority or
6. contributes to infringements mentioned in nos. 1 to 5.

In determining the amount of the infringement fine, particular emphasis shall be accorded to the seriousness of the infringement, the duration of the infringement, manifest culpability and the company's revenue. An infringement fine is due for payment two months after the decision to impose it. A decision to impose an infringement fine is enforceable by attachment. If a civil action is brought against the State to examine the decision, its enforceability is suspended. The court may examine all aspects of the case.

The statute of limitations for imposing a fine expires after five years. The time limit for imposing a fine is interrupted when the Authority notifies a natural person or company that the party in question is suspected of infringement of the Act or decisions issued pursuant to the Act.

The Authority may issue regulations on calculating the infringement fine.

Inserted by Acts No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

#### **Section 10-14. *Confiscation of equipment***

The Authority may confiscate equipment in the event of serious or repeated breaches of decisions laid down pursuant to Sections 10-6 and 10-9.

Confiscation may occur without prior notification if the use constitutes an immediate danger to life, health and security, and it is not probable that other sanctions pursuant to Chapter 10 will prevent unlawful use. The Authority may require the assistance of the police when this is necessary to conduct the confiscation.

Proportionality shall be emphasised when deciding on whether confiscation shall be conducted. Particular consideration shall be taken to the degree of severity and duration of the illegal act.

The Authority may destroy the confiscated equipment a minimum of six months after the decision on confiscation no longer can be appealed, and the decision has not been subject to reversal or judicial review.

Inserted by Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

## **Chapter 11. Resolution of conflicts and appeal**

### **Section 11-1. *Mediation in conflicts between providers***

In conflicts between providers concerning obligations resulting from or pursuant to this Act the Authority may on request by one party mediate to obtain agreement between the parties. The Authority may after consultation with the parties set deadlines and other terms and conditions in connection with the mediation. The Authority may break off the mediation at any time. The mediation period shall not exceed four months.

That a matter has been submitted to the Authority pursuant to the first paragraph does not preclude the right to litigation before the ordinary courts of law. Section 27 b of the Public Administration Act does not apply.

The Authority may issue regulations on mediation.

Amended by Act No. 90 of 17 June 2005 (in force 1 January 2008 pursuant to Resolution No. 88 of 26 January 2007) as amended by Act No. 3 of 26 January 2007.

### **Section 11-2. *Resolution of conflicts in disputes between providers***

A dispute between providers concerning rights and obligations in accordance with individual decisions issued under the authority or pursuant to this Act may be submitted to the Authority by one party for resolution.

A decision on the dispute shall be reached as soon as possible and by no later than four months after the matter is brought before the Authority. In special cases the deadline may be extended.

The Authority may refrain from making a decision if the conflict can be resolved by other means, cf. for example Section 11-1. If an attempt to resolve the conflict has continued for four months or has been broken off without result and the matter has not been brought before a court of law, the Authority shall, on a new

request from one party, reach a decision in the matter, cf. the deadline in the second paragraph.

That a matter has been submitted to the Authority pursuant to the first paragraph does not preclude the right to litigation before the ordinary courts of law. Section 27 b of the Public Administration Act does not apply.

The Authority may issue regulations on resolution of conflicts in disputes on individual decisions.

Amended by Act No. 90 of 17 June 2005 (in force 1 January 2008 pursuant to Resolution No. 88 of 26 January 2007) as amended by Act No. 84 of 26 January 2007.

### **Section 11-3. *Conflicts across national borders***

A dispute concerning an electronic communications network or service that lies within more than one EEA state's jurisdiction may be brought before the Authority by one party if the object of the dispute is covered by Section 1-2. A dispute pursuant to Chapter 8 is not covered by this arrangement.

The Authority shall cooperate with the authorities of other states involved with a view to resolving the conflict. The authorities may agree to refrain from taking action on conflicts that may be resolved by other means. The providers shall be notified immediately of the decision.

If an attempt to reach resolution of a dispute that has continued for four months or has been broken off without result and the matter has not been brought before the court, the authorities of the states involved shall, on a new request from one party, cooperate in helping to resolve the conflict.

That a matter has been submitted to the Authority pursuant to the first paragraph does not preclude the right to litigation before the ordinary courts of law. Section 27 b of the Public Administration Act does not apply.

Amended by Act No. 90 of 17 June 2005 (in force 1 January 2008 pursuant to Resolution No. 88 of 26 January 2007) as amended by Act No. 84 of 26 January 2007.

### **Section 11-4. *Arbitration***

An agreement to settle conflicts concerning access to electronic communications networks and services through arbitration is binding only when the agreement on arbitration is concluded after the conflict arose.

An arbitration award does not prevent the Authority from imposing obligations or reaching other decisions pursuant to the Act.

**Section 11-5.** *The Consumer Complaints Board (Brukerklagenemnda) for Electronic Communications*

The Consumer Complaints Board shall hear complaints from end-users regarding disputes between end-users and providers of electronic communications services, when the end-user is a natural person or a small company. The Consumer Complaints Board shall ensure a reasonable, fair and expeditious consideration of such disputes. The organisation of the Board shall address the balance between industry and consumer interests.

An end-user may request Board consideration of any dispute in which the Board is competent, insofar as the end-user has an objective interest in obtaining the Board's opinion on the matter. Providers of electronic communications services that are covered by the complaints procedure are obligated to allow the Board to hear disputes with end-users. The Authority may exempt a provider or group of providers from the complaints procedure. As long as a dispute is being heard by the Board, a party may not bring it before ordinary courts of law.

The Consumer Complaints Board shall be funded by the providers of services that are covered by the complaints procedure. Contributions owed are enforceable by attachment.

The Authority may stipulate in an individual decision or regulations further provisions regarding the Consumer Complaints Board, including further provisions on funding and the services that are to be covered by the complaints procedure and may define precisely and limit the Board's competence in regulations.

Amended by Acts No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

**Section 11-6.** *Appeals against individual decisions*

The Ministry decides on appeals against individual decisions that the Norwegian Post and Telecommunications Authority makes on the authority or pursuant to this Act.

The appeal shall be presented to the Norwegian Post and Telecommunications Authority, cf. Section 32 of the Public Administration Act. The Norwegian Post and Telecommunications Authority shall undertake any investigations for which the appeal provides the basis, cf. section 33 of the Public Administration Act. If the conditions for processing the claim do not exist, it shall be rejected. If there are no grounds for reversing the appeal, the matter shall be sent to the Ministry without undue delay.

The Ministry shall settle the appeal as soon as proper procedure makes it advisable, cf. Section 33 of the Public Administration Act.

Only the Ministry may make the decisions mentioned in Section 42 of the Public Administration Act.

Decisions made by the Ministry may not be appealed against to the King unless otherwise follows from Section 28, third paragraph, of the Public Administration Act.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

### **Section 11-7. *Reversal***

The Ministry may reverse or rescind decisions issued by the Norwegian Post and Telecommunications Authority in accordance with Section 35, first paragraph, of the Public Administration Act.

Except when they concern matters of principle or of major social significance, cf. third paragraph, the Ministry may reverse or rescind decisions in accordance with Section 35, third and fifth paragraph, of the Public Administration Act.

In matters of principle or of major social significance, the King in Council may reverse or rescind decisions in accordance with Section 35, third and fifth paragraphs of the Public Administration Act.

Amended by Acts No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013).

## **Chapter 12. Administrative charges, fees, compulsory purchase and penalties**

### **Section 12-1. *Administrative charges***

The Norwegian Post and Telecommunications Authority may impose administrative charges to cover costs connected with the administrative tasks pursuant to this Act.

Administrative charges may be imposed on providers of electronic communications networks and services and those engaged in markets for equipment for electronic communications. The same applies to those granted frequency, number, name and address resources.

The imposition of administrative charges shall cover the Norwegian Post and Telecommunications Authority's relevant costs. The costs and revenue side of the

Norwegian Post and Telecommunications Authority's budget shall be published annually.

Orders relating to administrative charges are enforceable by attachment.

The Authority may issue regulations on administrative charges to the Norwegian Post and Telecommunications Authority.

### **Section 12-2. Fees**

To promote efficient use of resources fees may be required for access to frequency, number, name and address resources. The fees may be laid down by decision or as payment from auctions or other competitive selection procedures.

Claims for fees are enforceable by attachment.

The Authority may issue regulations on fees, including how to demand payment and how the fees shall be collected.

### **Section 12-3. Compulsory purchase**

The King may issue a decision or give his consent to undertake the compulsory purchase of title to or right of use of real property for the installation of electronic communications networks and equipment for electronic communications.

To protect the public interest or the users' interests in an appropriate use of resources that are used or may be used for electronic communications, the King may issue a decision or give consent to undertake the compulsory purchase of title to or the right of use of electronic communications networks and equipment for electronic communications. In this connection the King may also decide or give consent to undertake the compulsory purchase of title to or the right of use of real property that is used in the operation of electronic communications networks and electronic communications equipment.

Compensation shall be paid for the burden that the decision to undertake a compulsory purchase is assumed to place on the owner or holder of the right of use. This does not however apply if the objective is to connect the property to an electronic communications network. The compensation is set by discretion, unless the parties reach agreement. The discretion shall be directed by a rural police authority, execution and enforcement commissioner or police station chief with civil judiciary duties. Nevertheless, the King may make a decision for an individual case that the discretion shall be held as a judicial discretion. The arbitration has no delaying effect on implementation of the compulsory purchase decision.

An owner or holder of the right of use may demand that electronic communications networks and equipment for electronic communications be moved or removed from the property if this is necessary in the interest of appropriate utilisation of the property or right of use. In the absence of agreement the requirement shall be decided by judicial discretion. The same applies to any claim for repayment of compensation received pursuant to the third paragraph in connection with demands for moving or removal.

The sections of Act No. 3 of 23 October 1959 relating to compensation for expropriation of real property apply correspondingly to the extent relevant. The Authority may issue detailed regulations on when compulsory purchase pursuant to in this section may occur and on the extent of the encroachment.

Special permission in accordance with the Norwegian Roads Act is required to place electronic communications networks or equipment for electronic communications over, under, along or near a public road, when this is laid down in the Roads Act.

Amended by Act No. 53 of 25 June 2004 (in force 1 January 2006 pursuant to Resolution No. 901 of 19 August 2005) as amended by Act No. 84 of 17 June 2005.

#### **Section 12-4. Penalties**

Punishment by fine or imprisonment for up to six months applies for any party that wilfully or negligently:

1. infringes Section 2-5, second paragraph, cf. eighth, or seventh paragraph, Section 2-6, first or second paragraph, Sections 2-7 to 2-9, Section 2-13, Section 4-7, third paragraph, Section 4-8, sixth paragraph or Section 6-2, Section 7-1 or Section 8-1.
2. infringes regulations issued pursuant to Section 2-3, Sections 2-7 to 2-9, Section 2-10, second and seventh paragraphs or Section 2-13, Section 6-2, Section 7-1 or Section 8-1
3. infringes individual decisions laid down pursuant to Sections 2-3 to 2-5, first paragraph Section 2-10, second paragraph, Section 3-4, Section 4-1, Section 4-2, second paragraph, Section 4-4, first to fourth paragraph, Section 4-5, first paragraph, Section 4-6, first, second or fourth paragraph, Section 4-7, first or second paragraph, Section 4-8, first or third to fifth paragraph, Section 4-9, first to third paragraph, Section 4-10, Section 6-2, Section 7-1, Section 7-2, Section 8-1 or Section 10-6 or
4. provides incorrect or incomplete information to the Authority cf. Section 10-3.

If the intent of infringement of Section 2-9 is to obtain an unjustified gain on own or another's behalf, or if the perpetrator with this intention otherwise exploits



information that is covered by the duty of confidentiality, imprisonment not exceeding three years may be imposed.

Complicity is subject to the same penalties.

Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008), Act No. 54 of 14 June 2013 (in force 1 July 2013 pursuant to Decree No. 618 of 14 June 2013). Amended by Act No. 28 of 20 May 2005 (in force from the time laid out under law) which was amended by Act No. 74 of 19 June 2009.

## **Chapter 13. Concluding provisions**

### **Section 13-1. *Entry into force***

The Act applies from the date decided by the King.<sup>1</sup> The King may bring into force individual provisions at different times.

From the same date Act No. 39 of 23 June 1995 relating to telecommunications and Act No. 50 of 25 June 1999 relating to standards in transmission of television signals are repealed.

<sup>1</sup> From 25 July 2003 pursuant to Decree No. 879 of 4 July 2003, with the exception of Section 9-3, which entered into force on 1 November 2004 pursuant to Decree No. 1353 of 15 October 2004.

### **Section 13-2. *Transitional provisions***

Individual decisions and regulations issued under the authority of the Telecommunications Act or older Acts of law in the area of electronic communications which are in force on the entry into force of this Act shall continue to apply. This includes the continuance of obligations imposed on providers with significant market power on the authority or pursuance of law, until a market analysis has been performed and new individual decisions on the authority of this Act are implemented. If necessary the authorities may issue a decision to remove obligations from providers with significant market power.

National frequency allocation tables and national numbering plans as laid down on the authority of the Telecommunications Act or the Telegraphy Act which are in force when this Act enters into force shall continue to be in force.

Appeals that are being heard by appeal bodies when the Act enters into force shall be dealt with pursuant to this Act. Mediation that has commenced when the Act enters into force shall follow the provisions of the Telecommunications Act.

### **Section 13-3. *Amendments to other Acts***

From the date the Act enters into force the following amendments shall be made to other Acts of law: — — —