

The Electronic Communications Act

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Electronic Communications Act

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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. *Subject scope*

The Act applies to activity connected with the transmission of electronic communications and the associated infrastructure, services, equipment and installations. Management and use of the electromagnetic spectrum and numbers, names and addresses are covered. The same applies to all radiation of electromagnetic waves from electronic communications and all inadvertent radiation of electromagnetic waves that may interfere with electronic communications.

King may by individual decision or regulations determine what shall be considered to fall within the subject 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).

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.

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.

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*

In this Act the following definitions shall apply:

1. electronic communications: transmission of sound, text, pictures or other data using electromagnetic signals in free space or by cable in a system for signal transmission.
2. electronic communications network: electronic communications system that includes radio equipment, switches, other connection and routing equipment, associated equipment or functions.
3. network termination point: connection point between an electronic communications network and terminal equipment.
4. electronic communications service: service that wholly or primarily comprises conveyance of electronic communications and that is normally provided for a fee.
5. telephone service: electronic communications service that transmits speech between terminal equipment connected to network termination points in an electronic communications network.

6. leased lines: electronic communications service in the form of permanently established capacity for signal transmission as a factor input for service production or as transmission between different geographic addresses for end-users.
7. public electronic communications service: electronic communications service that is accessible to the public or intended for use by the public.
8. 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.
9. radio equipment: product or parts of a product that intentionally radiate or receive electromagnetic waves transmitted in free space, except a receiver of analogue broadcasting.
10. 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.
11. co-location: shared use of property in the form of premises, masts, cable conduits, etc., used or to be used to locate equipment for electronic communications.
12. 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.
13. 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.
14. provider: any natural or legal person that offers others access to an electronic communications network or service.
15. premium rate service: content service paid for in advance or in arrears that is offered over electronic communications networks and that is billed along with an electronic communications service.

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

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. Providers subject to a duty to register shall register the activity with the Authority no later than at the time the activity commences.

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

Providers of public electronic communications services shall measure quality and provide information on the quality of service that is offered to the end-user.

The Authority may issue regulations on methods of measurement and information requirements.

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

The Authority may impose requirements for electronic communications networks, services, associated equipment, installations 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 and 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).

Section 2-4. *Terms of supply*

Providers of public electronic communications services to end-users may be required to prepare and publish terms of supply for such provision.

Providers of electronic communications networks that are used for public electronic communications services and providers of such services may change or close access to networks or services at the earliest one month after notice has been given of the change or closure. Users who do not accept new terms of supply may cancel the agreement with immediate effect. In the notice to the user information shall be given on the right to cancel the agreement.

The Authority may issue regulations on terms of supply.

Section 2-5. *Permitted restrictions on use*

The Authority may order providers to implement restrictions on use on 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.

The Authority shall be notified immediately in the event of disconnection. If possible, the provider shall notify the Authority, stating the reasons, on other restrictions on use. If possible, the provider shall notify affected end-users and other affected providers of any disconnection or other restrictions on use, while stating the reasons. Affected end-users and providers shall be given the right to respond to restrictions on use.

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.

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

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

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

It shall be possible to make calls to the emergency services' emergency call service from all terminals connected to public telephone services.

It shall be possible to make calls to the emergency services' emergency call service from terminals directly or indirectly connected to public telephone services 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 of public telephone services and owners of electronic communications networks used to supply public telephone services shall ensure that the telephone number and necessary information for geographic locating of emergency calls is transmitted for all calls to the emergency services without payment by the end-user.

The same shall apply even if the end-user has an agreement for an unpublished telephone number or has blocked the display of the calling number on equipment of the end-user called.

On application, providers of public telephone services may be given time-limited exceptions to the duty to offer caller location information.

The Authority may issue regulations on calls to emergency call services and geographic locating of emergency calls.

Section 2-7. *Communications protection etc.*

The provider shall implement the necessary security measures for the protection of communications in the provider's electronic communications networks and services. In the event of a particular risk of breach of security the provider shall inform the subscriber of the risk.

Traffic data shall be deleted or rendered anonymous as soon as they are no longer necessary for communications or invoicing purposes, unless otherwise determined by or pursuant to law. Any other processing of traffic data requires the consent of the user.

The Authority may issue regulations on matters governed by the first and the second paragraphs.

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 on end-users and electronic communications.

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 store traffic data for a specified period.

Section 2-9. *Duty of confidentiality*

Providers and installers have a duty to maintain secrecy of the content of electronic communications and others' use of electronic communications, including information on technical systems and methods. They have a duty to implement measures to prevent others than those to whom the information applies from obtaining knowledge of such information. Nor may the information be utilised for their own purposes 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 on telephone numbers unpublished according to contract or other subscription information, as well as electronic communications addresses. The same applies to giving evidence in courts of law. Nor is the duty of confidentiality an obstacle to 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 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.

Section 2-10. *Security and preparedness*

Providers shall offer electronic communications networks and services with the necessary 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.

To ensure the fulfilment of national requirements for electronic communications security the Authority may issue regulations, issue individual decisions or conclude agreements that providers shall implement measures pursuant to the first paragraph. Such measures may include *inter alia*:

1. introduction of special functions and services in electronic communications networks, operating systems and operating organisations
2. contingency planning and preparedness plans, including contributing to national preparedness plans and participation in drills
3. physically securing of important installations in electronic communications networks

The Authority may order providers to enter into cooperation with other national or international activity when this is laid down in an international agreement.

In principle, providers shall meet costs of security and preparedness measures pursuant to this section. Providers' actual additional costs connected with provision of security and preparedness measures will be reimbursed by the State on the basis of satisfactory documentation furnished by providers. "Additional cost" means the cost that would not materialise in the absence of this provision, beyond the cost of a purely commercial solution.

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

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

Section 2-11. *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 proceedings 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 plans and any amendments to them shall be sent to the Authority. 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 proceedings or bankruptcy that the provider sends to the District Court. The District Court is immediately to inform the Authority of debt 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 particular 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 in bankruptcy to take over all or part of the debtor's current contracts. 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 proceedings pursuant to the Bankruptcy Act would otherwise lead to cessation of operations.

Ordered operation pursuant to the fourth paragraph shall have no effect on the estate's right to choose whether it will assume the debtor's contracts pursuant to Section 7-3 of the Satisfaction of Claims Act (dekningsloven), 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 contracts 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.

Section 2-12. *Premium rate services*

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

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 rescind permission 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.

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 to an appreciable extent independently of competitors, customers and consumers. 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 the electronic communications.

When pursuant to the first paragraph the Authority defines markets 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 may issue regulations on market analyses.

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 exceptional circumstances 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 in the individual case shall be appropriate to promote sustainable competition as well as facilitate national and international development in the market. The Authority may amend obligations imposed.

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).

Chapter 4. Access etc.

Section 4-1. *Access*

The Authority may direct 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 his 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 developments in the market 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 in relation to the risk with which the investment has been associated
3. sustainable competition
4. the need to sustain the network's integrity
5. intellectual property rights
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 access, including technical and administrative terms for access.

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 pursuant to Section 4-1, second paragraph. A provider with significant market power as regards the products 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 conditional access 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 accessible. 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 conditional access services and other functions that may limit access to radio and television, including laying down 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 conditional access services to be consistent.

Section 4-4. *Co-location and other shared utilisation of infrastructure*

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

The Authority may impose shared utilisation of infrastructure on providers when considerations of effective use of resources, the interests 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 a reasonable request for co-location or other shared utilisation of infrastructure within the market where the provider has significant market power, when this is appropriate 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 on reasonable request for such access.

In the assessment of whether a request is reasonable pursuant to the third and the fourth paragraphs an assessment shall be performed pursuant to Section 4-1, second paragraph. Providers with significant market power shall document and justify refusals of requests for co-location and other shared utilisation of infrastructure.

Orders pursuant to the first, second and third paragraphs will follow the procedure in Section 9-2.

The Authority may issue regulations on co-location and on shared utilisation of infrastructure.

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

Section 4-5. 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 considering whether a request is reasonable an assessment shall be undertaken pursuant to Section 4-1, second paragraph.

A provider with significant market power in the market for the products full and shared access to the 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 Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

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 duty to publish specified information may *inter alia* include:

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

The Authority may require that offers pursuant 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.

A provider with significant market power in the market for the products full and shared access to the fixed access network shall prepare a reference offer for access to the fixed access network. The offer shall be sufficiently unbundled so that the requester does not pay for services, functions or outputs 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).

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 such activity and other activity. 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 organize 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 on a provider with significant market power pricing obligations for access and interconnection in cases where the provider may use his 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 as mentioned in the first paragraph the use of specific systems for cost accounting. 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 4-10. *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. *Carrier pre-selection and carrier selection using a prefix*

A provider with significant market power in access to public telephone services provided at a fixed location and who controls access to end-users shall offer carrier pre-selection and carrier selection using a prefix at cost-oriented prices. The price for carrier selection shall be determined between the providers so that the end-user is not billed separately for this.

The Authority may issue regulations on carrier pre-selection and carrier selection using a prefix.

Section 4-12. *Minimum set of leased lines*

A provider with significant market power in all or parts of the market for the minimum set of leased lines shall offer such leased lines to end-users on non-discriminatory terms. The Authority may order the provider to offer such leased lines at cost-oriented prices.

A provider pursuant to the first paragraph shall prepare and publish terms of supply for the minimum set. The Authority may make exceptions to the requirement for publication should it appear unreasonable.

The Authority may issue regulations on leased lines, including laying down the scope and content of the minimum set.

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

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

Each provider is obliged 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.

Inserted 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.

Inserted 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 societal obligations

Section 5-1. *Universal service obligation*

The Authority may enter into contract with or designate by order one or more providers of electronic communications networks and services to secure provision of the following universal services.

1. access to public telephone services and digital electronic communications networks throughout the country
2. public pay telephones
3. directory enquiry services
4. telephone directories
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.

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 to be met 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 contract 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 contracts 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.

Chapter 6. Spectrum management and orbital slots

Section 6-1. *National Table of Frequency Allocations*

The Authority shall establish the National Table of Frequency Allocations for use of the electromagnetic spectrum. The National Table of Frequency Allocations 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 Table of Frequency Allocation shall be publicly available.

Section 6-2. *Spectrum licences*

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

When allocating frequencies, efficient use of society's resources through sustainable competition, free movement for services and harmonised use of the frequencies shall be taken into consideration.

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 the spectrum.

Amended by Act No. 2 of 11 January 2008 (in force from the date determined by the King).

Section 6-3. *Conditions attached to licences*

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

1. statement of services, network type or technology for which the spectrum shall be used
2. actual and efficient use of the spectrum

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
6. the right to transfer a licence
7. the licence fee
8. individual obligations in accordance with the service offered
9. obligations pursuant to relevant international agreements on the use of the spectrum.

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

The Authority may limit the number of spectrum licences if such limitation is necessary to safeguard the interests of the users and to facilitate sustainable competition. Any limitation of the number of spectrum 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 decision to limit the number of spectrum licences shall be justified and made public
3. interested parties shall be invited to apply for the available spectrum licences

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

Section 6-5. *Transfer of spectrum licences*

The Authority may issue individual decisions that entitle the holder of a spectrum licence to transfer the licence.

Before any such transfer 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 spectrum pursuant to the National Table of Frequency Allocations.

The Authority shall publish information regarding transfers of spectrum licences.

The Authority may issue regulations on the right to and conditions for transferring of spectrum licences.

Section 6-6. *Satellite orbital slots*

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

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

Section 6-7. *Recourse*

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 requests registration of a satellite orbital slot must furnish 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.

The Authority may issue regulations on the furnishing of security when registering a satellite orbital slot.

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

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

Providers are to report on a continual basis information regarding the use of numbers, names and addresses and associated end-users to providers of directory enquiry services and telephone directories, 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 in pursuance of the last paragraph and requirements for procedures and labelling. A spectrum 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, require 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 in such equipment. Those registered pursuant to a regulation laid down in pursuance of 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 (*forvaltningsloven*)

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 third paragraphs. The consultation does not apply to individual decisions issued in pursuance of Section 9-3, third paragraph, and Sections 11-2 and 11-3.

Draft 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 5a, second paragraph, of the Freedom of Information Act (offentlighetsloven) applies correspondingly.

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

To be amended by Act No. 16 of 19 May 2006 (in force from the date determined by the King).

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.

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 the EEA nations 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 withdrawn.

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 section did not go into force together with the rest of the Act (i.e. 25 July 2003) pursuant to Decree No. 879 of 4 July 2003, but from 1 November 2004 pursuant to Decree No. 1353 of 15 October 2004. Amended by Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

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 particular 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 body that receives information pursuant to the first paragraph shall not, without the written agreement of the despatching body, allow access to information that at the time of the exchange was exempted from public disclosure by the despatching body pursuant to Sections 5 and 6 of the Freedom of Information Act (offentlighetsloven). The Authority shall not, without the consent of the competition authorities, allow access to information mentioned in Section 26 and 27 of the Competition Act.

Amended by Act No.1 2 of 5 March 2004 (in force 1 May 2004 pursuant to Decree No. 479 of 5 March 2004).

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 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 may 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 in pursuance of 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. *Limitation on power to issue instructions*

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 Section 2-4, second paragraph, Sections 3-1 to 3-4 and Sections 4-1 to 4-10.

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.

The Authority may require information to be submitted in writing or orally by a set deadline.

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.

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 in pursuance of 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 in pursuance of 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 special action in the event of a breach of the terms of licences, the obligations of a provider with significant market power or the mandates 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 in pursuance of 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 in pursuance of 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 in pursuance of 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 in pursuance of 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 in pursuance of 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. 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 in pursuance of 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 in pursuance of this Act may be revoked immediately if breach of the terms constitutes an immediate and serious threat to safety or human health.

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

Section 10-9. 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.

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 the assistance of the police when this is necessary to implement the closure.

Section 10-10. Orders to stop the sale of radio and terminal equipment and to recall same

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 in pursuance of 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 in pursuance of 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 in so far as obligations in accordance with this Act are contravened, unless it would be unreasonable pursuant to Section 36 of the Contracts Act (avtaleloven) to make the rest of the agreement applicable.

Section 10-12. Reimbursement between providers

A provider who has been overcharged in respect of a price obligation laid down in or in pursuance of 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 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 for. 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 (forsinkelsesrenteloven). 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.

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

Section 10-13. Administrative fines

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

1. violates Sections 2-2, first paragraph, 2-4 to 2-9, 2-14, 4-1, third paragraph, 4-2. first or third paragraph, 4-3, first paragraph, 4-4, fourth or fifth paragraph, 4-5, second paragraph, 4-6, third paragraph, 4-7, third paragraph, 4-8, second or sixth paragraph, 4-11, 4-12, first or second paragraph, 4-13, 6-2, 7-1, second paragraph, 7-3, first paragraph, 7-4, first paragraph, 8-1, second paragraph, or 10-4
2. violates regulations laid down in pursuance of Sections 2-1 to 2-9, 2-10, second paragraph, 2-12, 2-14, 4-1 to 4-8, 4-11, 4-12, 5-1, 6-2, 6-5, 7-1 to 7-4, 8-1, 10-3 or 10-5 when the regulations stipulate that the violation of the relevant provision will result in an administrative fine.
3. violates an individual decision issued in pursuance of Sections 2-3 to 2-5, 2-10, second paragraph, 4-1, 4-2, second paragraph, 4-4 first to third paragraphs, 4-5, first paragraph, 4-6, first, second or fourth paragraph, 4-7, first or second paragraph, 4-8, first, third to fifth paragraphs, 4-10, 5-3, 6-2, 6-5, second paragraph, 7-2, 7-5, 8-1, 10-4, 10-6 or 10-10
4. violates a decision laid down in pursuance of Section 10-3 or
5. provides incorrect or incomplete information to the Authority.

In determining the amount of the administrative fine, special weight shall be accorded the seriousness of the violation, the duration of the violation, manifest culpability and the undertaking's revenue.

An administrative fine is due for payment two months after the decision to impose it. A decision to impose an administrative 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 power to impose a fine is time-barred after five years. The time limit for imposing a fine is interrupted when the Authority notifies a natural person or undertaking that the party in question is suspected of violation of the Act or decisions issued in pursuance of the Act.

The Authority may issue regulations on determining the size of the administrative fine.

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

Chapter 11. Resolution of conflicts and appeal

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

In conflicts between providers concerning obligations resulting from or in pursuance of 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 brought before the Authority pursuant to the first paragraph does not preclude leave for action before ordinary courts of law. Section 27 b of the Public Administration Act (forvaltningsloven) 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).

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 in pursuance of 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 brought before the Authority pursuant to the first paragraph does not preclude leave for action before ordinary courts of law. Section 27 b of the Public Administration Act (forvaltningsloven) does not apply.

The Authority may issue regulations on resolution of conflict 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).

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 leave to bring a case before ordinary courts of law. Section 27 b of the Public Administration Act (forvaltningsloven) 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).

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 in pursuance of 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 minor legal person. 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 in the matter. Providers of electronic communications services that are covered by the complaints procedure are obliged 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 in 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 Act No. 2 of 11 January 2008 (in force 15 January 2008 pursuant to Decree No. 8 of 11 January 2008).

Section 11-6. Appeal against individual decision

The Ministry will decide on appeals against individual decisions the (Norwegian) Post and Telecommunications Authority makes on the authority or in pursuance of this Act.

The appeal shall be made before the Post and Telecommunications Authority, cf. Section 32 of the Public Administration Act (forvaltningsloven). The Post and Telecommunications Authority shall undertake the investigations for which the appeal gives grounds, cf. Section 33 of the Public Administration Act. If the conditions for hearing the appeal are not present 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 pursuant to Decree No. 8 of 11 January 2008).

Section 11-7. *Reversal*

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

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 paragraph, of the Public Administration Act.

Notification that the Ministry has taken up a decision for consideration must be sent to the parties within four weeks. Notification that a decision has been amended or set aside must be sent to the parties within three months. The time limits pursuant to this paragraph run from the date of the Post and Telecommunications Authority's decision.

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

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

Section 12-1. *Administrative charges*

The 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 receiving spectrum licences, numbers, names and address resources.

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

Section 12-2. Fees

To promote efficient use of resources fees may be required for spectrum rights and numbers, names 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 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 appraisal, unless the parties reach agreement. The appraisal shall be directed by a rural police authority, execution and enforcement commissioner or police station chief with civil judicature duties. Nevertheless, the King may however make a decision for an individual case that the appraisal shall be held as a judicial appraisal. The appraisal 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 appraisal. 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 Roads Act (veglova) 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

Anyone who wilfully or negligently

- 1 violates Sections 2-5, second paragraph, cf. sixth paragraph, or fifth paragraph, 2-6, first or second paragraph, 2-7 to 2-9, 2-13, 4-7, third paragraph, 4-8, sixth paragraph, 6-2, 7-1 or 8-1.
- 2 violates regulations laid down in pursuance of Sections 2-3, 2-7 to 2-9, 2-10, second paragraph, 2-13, 6-2, 7-1 or 8-1.
- 3 violates an individual decision issued in pursuance of Sections 2-3, 2-5 first paragraph, 2-10, second paragraph, 3-4, 4-1, 4-2, second paragraph, 4-4 first to third paragraphs, 4-5, first paragraph, 4-6, first, second or fourth paragraph, 4-7, first or second paragraph, 4-8, first, or third to fifth paragraph, 4-9, first to third paragraph, 4-10, 6-2, 7-1, 7-2, 8-1 or 10-6 or
- 4 provides incorrect or incomplete information to the Authority, cf. Section 10-3.

shall be liable to fines or imprisonment not exceeding six months.

If the intent of violating Section 2-9 is to obtain an unjustified gain for oneself or another, 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).

Chapter 13. Concluding provisions

Section 13-1. Entry into force

The Act applies from the date decided by the King¹. 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 (teleloven) and Act No. 50 of 25 June 1999 relating to standards in transmission of television signals are repealed.

¹ From 25 July 2003 pursuant to Decree No. 879 of 4 July 2003, with the exception of Section 9-3, which entered into force of 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 (telegrafloven) 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:

1. Section 151b, first paragraph, of Act no. 10 of 22 May 1902, the General Civil Penal Code shall read:

Any person who by destroying, damaging or putting out of action any data collection or any installation for supplying power, broadcasting, electronic communications or other communication or transport causes comprehensive disturbance in the public administration or in community life in general shall be liable to imprisonment for a term not exceeding 10 years.

2. Section 1, second paragraph, of Act No. 5 of 24 June 1915 relating to the monitoring of postal and telegraph transmissions and of telephone conversations:

Outside of time of war the surveillance may only be employed in relation to persons suspected of some contravention of the Act of 18 August 1914 relating to defence secrets, Chapters 8, 9, 12, 13 or 14 of the General Civil Penal Code, Section 12-4 of Act No. 83 of 4 July 2003 relating to electronic communications, or Section 5 of Act of 14 May 1917 relating to the sale and export of foodstuffs etc.

3. Section 204 No. 2, second and third sentences, of Act No. 6 of 13 August 1915 relating to the legal procedure for the settlement of disputes shall read:

The same applies to a witness who has a duty of confidentiality as a consequence of service or work for a family care centre, postal agency, providers or installers of electronic communications networks or services, or the State airport company. The same also applies to a witness who has a statutory duty of confidentiality as a consequence of service or work in a technical control body.

The current third sentence will become the new fourth sentence.

4. Section 1, second paragraph, of Act No. 1 of 9 July 1923 relating to the positioning of signals and markers for surveying purposes shall read:

This Act does not apply to surveying carried out according to Section 13-3 of Act No. 83 of 4 July 2003 relating to electronic communications. Conversely it applies to surveying carried out in connection with work on the watercourses, in connection with land consolidation and under the Road Act.

5. Section 3 of Act No. 11 of 17 July 1925 relating to Svalbard shall read:

The laws relating to public servants, payment for public procurements, coinage, measurement and weights, the arrangement of nationwide postal despatches, electronic communications, worker safety, and work disputes shall apply to Svalbard with those amendments that the King lays down in the interest of local conditions.

6. Section 30, No. 2, of Act No. 3 of 23 October 1959 relating to expropriation of real estate shall read:

2. Section 12-3 of Act No. 83 of 4 July 2003 relating to electronic communications.

7. In Act No. 66 of 19 June 1969 relating to value added tax the following amendments are made:

Section 5 b, third paragraph, shall read:

The exceptions in the first paragraph do not apply when the services are sold or provided by a provider of electronic communications using electronic communications services and the consideration for the service is collected by the party that provides the communications service.

Section 48a shall read:

When special considerations make it necessary and there are suspicions of contravention of provisions given in or pursuant to this Act, the Directorate of Taxes (Skattedirektoratet) or someone authorised by the Directorate, may direct the provider of access to electronic communications networks or services to provide information on the name and address of a subscriber who does not have a public telephone number, facsimile number or personal messenger number.

8. Section 2b, first paragraph, of Act No. 47 of 16 June 1972 relating to the control of marketing and contract terms (markedsføringsloven) shall read:

It is prohibited for business purposes to direct marketing approaches to consumers using electronic communications methods that allow individual communications, such as for example electronic mail, text messaging to mobile telephones, facsimiles or an automated calling system (call machine) without the recipient's agreement in advance.

9. Section 74, ninth paragraph, of Act No. 77 of 21 December 1979 relating to land consolidation etc. other provisions shall read:

The parties otherwise pay the severance costs except fixed office expenses, postage, electronic communications and pay, travel and subsistence for the public servants.

10. In Act No. 25 of 22 May 1981 relating to legal procedure in criminal cases the following amendments are made:

Section 118, first paragraph, second sentence shall read:

The same applies to a witness who has a duty of confidentiality as a consequence of service or work for a family counselling office, a postal agency, providers of access to electronic

communication networks or electronic communication services, electronic communication electrician or the State airport company (*Avinor*).

Section 211, first paragraph, shall read:

Any letter, telegram or other communication that is in the possession of a postal agency or any provider of access to an electronic communication network or electronic communication services may be seized pursuant a court order if such communication may pursuant to the provisions of sections 203 and 204 be seized from the recipient, and the suspicion is directed to an act punishable pursuant to statute with imprisonment for a term exceeding six months.

Section 216 a, third paragraph, shall read:

Communications surveillance may consist of audio* surveillance of conversations or other communications conducted to and from specific telephones, computers or other apparatus for electronic communication which the suspect possesses or which it may be assumed to use.

11. Act No. 50 of 1 July 1999 relating to standards of transmission of television signals is repealed.

12. Section 2, first paragraph, litra c, of Act No. 69 of 16 July 1999 relating to public procurement shall read:

- c. Legal persons that run enterprises in the water supply, energy, transport or electronic communications sectors to the extent that they engage in procurement connected to these areas of activity. However, this applies only to the extent that such a legal person
 - 1. is given special or exclusive rights by public authorities to run the enterprise or
 - 2. is controlled by a public authorities.