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## **Comments on the draft Law on Telecommunications of the Republic of Croatia**

**by**

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This analysis has been examined by Directorate Education and Culture (audiovisual policy Unit) of the European Commission for what concerns the aspects of the Telecommunications Law strictly related to television broadcasting and the *acquis communautaire* in this field. For reasons of time constraints, it has not been examined by the Services of the Commission dealing with telecommunications issues and *acquis* in this field. Therefore, the European Commission cannot at this stage be associated with the comments that have been made by the Council of Europe and the OSCE on the EU *acquis* in the Telecom sector. This does not imply of course any value judgement on the quality of these comments. The view of Directorate Education and Culture on the broadcasting aspects of this analysis are provided on an informal basis and do not prejudice the right of the Commission to comment further once the law has been passed.

## Summary and Introduction

The main ways in which this law is relevant for broadcasting is in connection with frequency spectrum management, the creation of an agency for this and rules for its operation. The licensing process for frequencies is of relevance for electronic media and a prerequisite for the functioning of broadcasting licensing. Radio equipment rules also have a bearing on broadcasting. Apart from this, the draft law does not contain any rules on broadcasting matters. It is explained in the introduction that one change as compared with the previous law is that provisions regulating content and other matters relating to electronic media are omitted from the Telecommunications Law to instead be regulated in a separate law. Reference is made to the European Convention on Transfrontier Television.

The draft law aims at harmonising Croatian regulation of telecommunications and related matters with the EU *acquis* in the area. To quite a large extent the draft repeats, sometimes verbatim, requirements set out in EU directives or other legal documents. This includes issues such as universal services and interconnection. The principle for EU regulation of the telecommunications sector is that regulation should be reduced to a minimum. Regulation should be enforced as closely as possible to the activities being regulated. However, in the area that is relevant for broadcasting – spectrum management – it is not possible to eliminate regulation as the frequency spectrum is a limited natural and public resource and furthermore requires international co-ordination. This is indeed one of the areas where regulation is still necessary. The EU radio spectrum policy aims at an effective regulation and harmonisation between different uses of spectrum. EU regulation also recognises the need for special rules (as opposed to just normal competition rules) in relation to broadcasting to ensure cultural diversity and media pluralism, but such considerations are primarily included in the Law on Electronic Media rather than the draft Telecommunications law.

By this draft law and the draft Law on Electronic Media, separate authorities are created for licensing: the Council for Electronic Media and the Agency for Telecommunications. There is nothing unusual in itself in this structure with a “technical” body that deals with telecommunications and frequency issues and another body for other broadcasting regulatory matters. Indeed, this is still the more common system in Europe with joint regulatory bodies being rather unusual (even if the idea of joint bodies is supported by many commentators and also in some EU statements). Although the structure with separate bodies as such is not anything to object to, as both this Law on Telecommunications and the Law on Electronic Media were drafted at more or less the same time, it is a pity that they were not drafted together to a greater extent. It appears from some matters in the draft (and it was also the impression received on a recent visit to Croatia for discussions on the Law on Electronic Media) that although there have been consultations, the drafts have been written separately.

The comments made regarding the draft Law on Electronic Media pointed out the importance of co-ordination with the regulatory agency dealing with frequency issues. Indeed, during the course of advising on the draft Law, it was highlighted on several occasions that the final version of the Law must deal with co-ordination and co-operation issue in a clear and specific manner. It is important that media issues related to content, plurality, etc are taken into account in the licensing process by the broadcast regulator. Licensing cannot be just a technical process. At the same time, if criteria for a broadcasting licence are met and there is

frequency spectrum available, technical issues must not block or delay broadcasting licensing. For the broadcasters, the licensing process should be one unified process. The broadcasters should be able to submit a single application – following clear, understandable and not excessively burdensome criteria – to one authority. The application may contain different parts and these may be dealt with by different authorities, but the co-ordination of the process should be the task of the authorities. It should be the broadcasting authority that receives and co-ordinates broadcasting licence applications and which then follows a clear procedure to obtain necessary frequency allocation and clearance, in co-operation with the Telecommunications Agency. There should be ongoing and regular contacts between the two authorities to discuss emerging policy on spectrum use; not just ad hoc for applications. Both authorities should take into account professional opinions of the other, and indeed, the Telecommunications Agency should be under an obligation to consult with the Council for Electronic Media before assigning spectrum for any specific use. Although a system is set up here, it is not as clear as it could be. For example, if additional spectrum becomes available which might be suitable for use for broadcasters, the views of the Council ought to be considered before the Agency makes any final determination as to how that spectrum is to be utilised.

Convergence of technologies with less and less distinction between different users of spectrum also means that regulatory systems for various uses of spectrum must be well co-ordinated. The issue of co-operation and co-ordination between different regulatory agencies involved in broadcasting issues is very important. The work of the Council for Electronic Media, to be set up under the new Law on Electronic Media, that issues licences to broadcasters can only perform its work if the system for getting necessary frequencies is in place and functions. The frequency management body should also know about the situation in the media field, as questions related to the demand from broadcasters for new frequencies and such matters should be a feature included in the planning and deliberation of the body, as part of its on-going policy development, and not merely in response to specific licensing requests. Although co-operation and co-ordination in practice is often based on good working relations on the ground, there must be a proper legal basis to make up for any deficiency in such working relations. If the bodies belong under different ministries, such co-ordination may be even more important, as it will not be part of internal ministry work. (It was not totally clear under which Ministry electronic media issues will fall in the future, but it is likely to be the Ministry of Culture. Telecommunications fall under the Ministry for Communications.)

This commentary is not supposed to deal with other matters in the law than those related to broadcasting so there has not been any thorough analysis of purely telecommunications matters. It may just be said as a general comment that it appears as if the EU acquis is closely followed in the draft law although there may be certain areas where there are some divergences.

### **Introductory Note**

The introduction to the draft law sets out the constitutional basis for the draft law, as well as describing the current situation. It lists what laws now regulate telecommunications issues and which bodies are tasked with regulatory and other matters. The liberalisation of telecommunications, the need to harmonise with the EU acquis as well as the desire to promote the field are mentioned as reasons for a new law. In this context, also the desire to have a modern audiovisual policy in regulating the relationship between the public

broadcaster and commercial broadcasters is mentioned and the alignment with the EU Television without Frontiers Directive. The introduction to the law mentions a large number of EU rules that are taken into account in the draft. This includes the telecommunication acquis including rules relating to frequency matters.

## **Chapter I. General Provisions**

The content of the law is set out in Article 1. This is in line with what has been explained in the introduction, that the only issue related to broadcasting that is included is management of the radio frequency spectrum. It would be advisable to state explicitly that the law does not regulate other matters related to broadcasting other than frequency management. Although this is implicit, many telecommunications laws make this explicit statement to be even clearer. Article 2 sets out that e.g. the frequency management spectrum shall be in the public interest of the Republic of Croatia. In this Article, it would be appropriate to mention also other principles in the sphere of communications regulation, like objectivity, transparency, non-discrimination and proportionality, that are very important elements of the EU acquis.

Article 3 lists the role of different bodies. The Government adopts a strategy based on a proposal from the competent Ministry in co-operation with other relevant ministries. The Ministry of Culture, which will probably be responsible for electronic media, is not mentioned here. As the strategy, even if primarily relating to telecommunications matters, may well also concern issues of interest for broadcasting, it would be sensible also to mention the ministry competent for these issues. It will in practice anyway be possible for the main ministry to decide the method and extent of co-operation with other ministries depending on what issues are involved. Therefore, it would appear unnecessary to exclude the ministry for broadcasting issues completely. Point 5 of the Article gives the Ministry the role of representing Croatia in international organisations with a possibility of delegating to the regulatory agency. It is in many cases better that the regulatory agency takes part in such international co-operation as this strengthens the role of the Agency to make it as independent and important as possible. Points 6 and 7 on supervisory inspection and administrative supervision by the Ministry would appear to contradict this independence of the Agency. It was explained in relation to the Law on Electronic Media that the administrative supervision is a limited form of supervision necessary under Croatian law generally. What exactly point 6 refers to is not clear. In any case, it is worthwhile here underlining again the importance of a strong and independent regulatory agency.

Regulatory agencies in the communications area should be as independent as possible and have an important role. The independence as stressed by the EU relates primarily to independence from operators and the EU does not stipulate anything concerning the exact design of the regulatory agencies in the Member States, under normal EU principles of institutional autonomy. However, the EU has stressed in many contexts the importance of ensuring necessary resources as well as expertise and competence for regulatory authorities. To guarantee continuity and absence of political considerations in regulatory matters, the role of the government through the ministries in regulatory matters should be minimal. Normally, it should be sufficient that the government makes policy but that the implementation of it (including issuing of implementing regulations) is the task of regulatory agencies. The agencies should consist of professional, independent people with knowledge of the issues. It is always difficult to set up regulatory bodies to ensure that the best people are appointed and also to ensure that the process is not only independent, but also seen to be independent. There are attempts in this law to ensure quality of the persons appointed (see below, Article 8 and

9), but there may not be sufficient independence as the Government alone appoints candidates. It may be worthwhile considering if other bodies could not also be allowed to propose candidates (like the Academy of Science, Universities, etc). However, it is possible that the fact that there is an open application process for candidates is sufficient. This matter is of less direct importance for broadcasting than the appointment of the Council for Electronic Media, as the Agency for Telecommunications in relation to broadcasting will only have a technical role. But its competence and ability to perform its work independently is important also for broadcasting.

Article 4 actually sets up the Agency. The Article refers to EU acquis as well as national law. The principles and objectives of regulation of the telecommunications market are set out in Article 5. These relate mainly to telecommunications issues, but also include the efficient management and unhindered use of the radio frequency spectrum.

Paragraph 2 of Article 5 mentions the co-operation of the Regulatory Agency with the agencies for market competition and that for consumers' rights. For the efficient management of the radio frequency spectrum, it would also be useful to specify that it must co-operate with the Council for Electronic Media. Article 6 excludes from the law the military, police and security forces use of radio although frequency use shall be co-ordinated.

Article 7 of the law contains definitions. There is a long list of definitions, mostly in accordance with internationally accepted definitions. As most are not of relevance for broadcasting, they are not specifically commented upon here. For many of these terms, definitions exist in the EU acquis and in such cases the same definitions should be used – it has not been checked if this is always the case. The Law on Electronic Media defines different terms and specifically refers to the Law on Telecommunication for definition of terms in this area. It was pointed out in the comments to the Law on Electronic Media that there might be a need for more definitions in that law and that it might be better to repeat in that law definitions taken from other laws, to make it more clear. If this is done, it is important to follow closely the language of the definitions in the Telecommunications Law. While there is little overlap, the “activity of radio and television” in the Law on Electronic Media and the definitions of radio and television in the Telecommunications Law must not conflict – and in the present drafts does not. The definition of teleshopping in the Law on Electronic Media, which is found in the body of the law and not in the definitions (as was pointed out in the commentary) is not the same as that used in this law. This may not have a very big impact in practice, but the Telecommunications Law ought to use the same language as used in the Law on Electronic Media.

## **Chapter II. Croatian Agency for Telecommunications**

Article 8 deals with the establishment of the Agency. It is said that it is an autonomous and independent legal entity, set up by the Republic of Croatia with the Government and Parliament as founders. Paragraph 3 strengthens its independence by prohibiting any form of influence on the Agency e.g. through use of public media to exert pressure. This provision however does not appear to guard against the government or a minister interfering in individual decisions of the Agency. If government is going to retain such ‘back-stop’ powers, the circumstances in which it can intervene should be set out clearly with detailed criteria. Details of the work of the Agency shall be determined in a statute to be approved by the government. Also in this work it is important that co-operation and co-ordination with the electronic media body is taken into account.

Article 9 deals with the Agency council. Parliament appoints on a proposal by the government following a public tender. However, there are no specific provisions to ensure a wide variety of candidates as they are all ultimately appointed by government. It may be considered if other bodies, like universities, the Academy of Science, etc, could not have a role in appointment in order to increase the independence (see also the comment above). It should be specifically stated that members of the Agency (and their wives/husbands/dependent children) should not have any financial interest in any telecommunications company, in order to avoid a conflict of interest. Apart from this, there are no criticisms to be made on the provisions on criteria for members of the Agency, their duties etc. There is a stipulation on no appeals to the acts of the Agency. It is important that there is a form of appeal, which meets the requirements of Article 6 of the European Convention on Human Rights. Furthermore, the EU acquis on networks and services specifically requires that there is an appeal on the merits to an independent tribunal. As for the criteria in Article 10 on discharge, the only comment is to question whether any conviction of any crime (even very minor crimes) must disqualify. Article 11 sets out rules relating to the staff. It also refers to the Law on Institutions, which has not been studied in connection with this report.

The competence of the Agency (Article 12) may concern broadcasting in the general provision in point 4 on issuing of decisions and rulings on regulatory matters and in point 5 on supervision. Following from the general scope of the law, this would only be in relation to frequency matters, as other broadcasting issues should be excluded. The management of the spectrum is mentioned explicitly, points 7 to 9. As a general remark, point 10 on drafting subordinate legislation could give a larger role to the Regulatory Agency itself. However, it is not completely clear what type of legislation this point refers to as paragraph 3 of the Article does also talk about issuing decisions. Point 14 on cooperation with foreign regulatory agencies should also include frequency issues. Following provisions set out various details on the work of the Agency, which may have some effect on broadcasters to the extent they relate to frequency spectrum or equipment issues, where the Agency is competent. This includes the right to request information in Article 14. In practice, it is important that requests for information are also co-ordinated between regulatory agencies. It may be more suitable that a request for information from a broadcaster is made to the Council for Electronic Media that can forward it to the Agency. The reason for this would be that the Council for Electronic Media would be the counterpart of the broadcaster and the co-ordinator of information and contacts. Article 14 should also include the Agency's right to receive financial information from those it regulates, in order to assess fees under Article 15(1). An additional point to make on Article 14(2) is that the improper use of confidential information by the Agency ought to be treated very seriously – as a criminal offence.

### **Chapter III. Telecommunications Infrastructure**

This chapter mainly deals with issues that are not of direct relevance for broadcasting. The requirements for free transmission of certain messages in exceptional situations (Article 17 points 4 and 5) read together with the definitions could cover broadcasters. Specific rules for broadcasters are found in the Law on Electronic Media (Article 32 in the most recent draft of that law). There appears to be no discrepancy although the terminology used (in translation at least) is not identical. Harmonisation of terminology used would be advisable. Article 20 on shared use of telecommunications infrastructure mentions also concessionaires of radio diffusion services. The provision as such, and the possibility for the Agency to act, is good.

## **Chapter IV. Telecommunications Services**

This chapter contains specifics on the right to provide telecommunication services but also including radio services. The provisions explicitly cover web-site services, etc. It may be questioned if these latter services need to be regulated at all, even in this relatively “light” manner as proposed here (Articles 21 and 24). Regulations issued by the Minister will set out the detail, see Article 21.

Article 22 contains important provisions on radio diffusion services, providing two alternative articles. As “radio diffusion service” is not listed in the definitions, a different term should be used (but this may be a translation error). The first alternative is very short and refers to the Law on Electronic Media. To this it should be added that the Agency issues the concession for the use of radio frequency spectrum, as that appears to be the case when reading the two laws together. The wording used in the second alternative – “A decision on concessions for the provision of (radio diffusion services) shall be issued by the Agency pursuant to a proposal from the Council for Electronic Media” may be used. Apart from this addition, the other text in the second alternative paragraph is not necessary, as the process should be clear from reading both laws together. In fact, setting out a version of the process (as in the alternative text) could be confusing. However, if it is considered desirable to use the alternative, the current text is faulty, as it does not refer to the Law on Electronic Media but just to regulations. A clear reference to the law is necessary. What must be clear here is that the Agency under this law just deals with the frequency issue, that is does so in co-operation with the Council for Electronic Media and that it is this latter body that supervises all other conditions for broadcasting. Such a provision in this law should be matched by a clear reference in the Law on Electronic Media to the Telecommunications Law.

Other criteria set out in the Article give details for telecommunications service provision that should not apply in the same manner to broadcasters. This shows again that it is vital to state clearly that for broadcasters, the law only applies to frequency issues. In Article 25, the regulation of telecommunications services using radio spectrum is set out. Such criteria must be sufficient so that a total picture of the radio frequency spectrum can be made, which appears to be the case here. Other criteria for concessions (which is not the normal term used in English, but which is the term in the translations of the other relevant laws also) do not refer to broadcasters. Even if they do not need to be the same for different users of spectrum, co-ordination and the avoidance of negative differences illustrate the importance of close co-operation between the different regulatory agencies. Basically, issues such as transfer, validity and extension should, for broadcasters, be regulated in the Law on Electronic Media and the Council will co-ordinate with the Telecommunications Agency. This means that rules here on transfer, revocation, etc should not apply to the electronic media directly. This applies also to ownership rules. Charges must also be co-ordinated and the payment made in a one-stop procedure, see Article 33. The Law on Electronic Media (Article 64 in the draft used for the commentary) just briefly mentions that a fee is paid for the concession. This means that there is no incompatibility of the two laws and that the details can be set out in regulations. Charges should not be excessive and must be transparent, proportionate, non-discriminatory and objective.

Article 32 stipulates that different legal entities can be authorised by the Agency to carry out various functions under the law, including measurements and testing. This relates also to broadcasting matters and these tasks and this manner of regulating them appear to be in accordance with normal standards.



## **Chapter V. Universal Telecommunication Services**

As is clear from the title, this Chapter deals with issues other than broadcasting. Without having made a careful study of the provisions, which thus fall outside of the scope of this report, the provisions largely appear to reflect the EU acquis. The EU Universal Service Directive (Dir. 2002/22/EC) also contains “must carry” obligations for broadcasters. These must be reasonable obligations for transmission of specific radio and television broadcast channels and services on undertakings providing electronic communication networks. This is intended for cases where a significant number of end-users use such networks as the principal means to receive broadcasts and the obligation must be transparent and proportional. This obligation is not reflected in the draft law.

## **Chapter VII. Market Competition**

As the terms operator and service provider as defined may include broadcasters (when reading all the definitions together), the provisions on market competition might refer to broadcasting. This again shows that it would be advisable to make clear for the entire law that it does not refer to broadcasting issues other than frequency related ones – unless specifically referred to. Otherwise there may be potential confusion with special provisions on concentration in the media field. Regulation of concentration in this area is found in the Law on Electronic Media and is better placed there, as broadcasting and telecommunications present different problems. Open network provision and interconnection are not as such of relevance for broadcasting. Again, it appears as if the EU acquis is followed but a detailed study is not within the scope of the report. Article 52 on structural separation and separate accounting would apply to broadcasters if they were involved in telecommunications. However, the draft law on Electronic Media currently contains a complete prohibition on telecommunications companies being broadcasters.

## **Chapter VIII. Addressing and Numbering**

These issues do not concern broadcasters. The only relevant Article for this report is Article 69 on the management of Internet space. It is not completely clear what the term “manage” in paragraph 1 refers to, but it is presumed it refers to the practical management of addresses and such matters, in which case there is nothing to object to. The regulation of Internet use as such should be kept to a minimum with any authorisation needed for the Internet only kept to the very least necessary and for a transitional period, if for some reason it is deemed it is required to have some regulation.

## **Chapter IX. Management of the Radio Frequency Spectrum**

These provisions are of importance for broadcasting. The most important comment to be made is what has been said several times previously – the importance of co-ordination between the spectrum and the broadcast regulator. Frequency management must be an integral part of the licensing process for broadcasting so that broadcasters/potential broadcasters only have to make one application even if this will contain several parts and will be dealt with by different authorities. There are no objections to the content of the provisions, which take into account the relevant international rules, especially the ITU rules. The EU has pointed out (in the Authorisation Directive, Dir. 2002/20/EC), that Member States may apply specific criteria and procedures to grant rights of use for radio frequencies to broadcasters to pursue general

interest objectives. However, the process of assignment of radio frequencies should still be objective, transparent, non-discriminatory and proportionate. The best way to handle this is to refer to the regulatory body for broadcasting, the Council for Electronic Media, in all matters apart from the pure frequency allocation and also to state explicitly the words objectivity, transparency, non-discrimination and proportionality.

The provisions contain some paragraphs, which are somewhat strange from a general legal drafting viewpoint, in that they are only statements with no substantive regulatory content. This is true for paragraph 1 of Article 70 and paragraph 1 of Article 74. In connection with the latter Article, on amateur radio communication, it is questionable if the detailed conditions need to be issued by the Minister and could not better be issued by the Agency. The same would be the case for the details on the "citizens frequency band" (Article 75). Also the tasks referred to in Article 77 of satellite radio communication should to a large extent be carried out by the Regulatory Agency. It would also be possible to designate the Agency as the issuer of regulation for the assignment of radio frequencies as in Article 79, although here it may be more justified that the Ministry may have a role. Generally, however, as much as possible should be handled by the Regulatory Agency and thus outside of the direct political considerations of the Ministry, thus emphasising the professional, technical nature of such regulation which should not normally change with a change of political colour of the government.

The provisions in Articles 81 onwards relate to broadcasters. It has been stressed many times how the licensing process should be a one-stop procedure for the applicant with extensive co-ordination between regulatory authorities. This also includes requirements for the modification of the technical characteristics of the issued licences. Such modifications must be possible but for the broadcaster it should be done in conjunction with the Council for Electronic Media. In Article 83, it is very important that there is close co-ordination with the Council for Electronic Media as such changes may in different ways impact on this work. There should be an explicit mention of the requirement for co-operation. The validity, extension and termination of a radio station licence may impact on broadcasting. Fee payment (Article 91) must also be carefully co-ordinated. In conclusion, the rules stipulated in this section are relevant and necessary as well as largely in accordance with international requirement. The Agency must be able to carry out the controls set out here. There is no need for duplication of the work by the Council for Electronic Media, but these issues should be the competence of the Agency. The two bodies should communicate between themselves in a manner that allows for each to have all the information needed from the other and for the applications to be dealt with as quickly and simply as possible while not compromising the efficient use of the radio spectrum. What would, however, be helpful (and would reinforce the necessity of co-working between the two bodies) would be a requirement set out in the Telecommunications Law for all broadcasters to also hold concessions issued by the Council for Electronic Media.

The management of the spectrum must allow for considerations of avoidance of harmful interference, for effective and efficient use of spectrum with necessary coverage requirements. This necessitates obtaining proper information, communicating this information and keeping it in the appropriate way while at the same time not creating too many burdens for operators. These considerations must be kept in mind when drafting the regulations to implement the details.

## **Chapter X. Radio Equipment and Telecommunications Terminal Equipment**

This Chapter is only of relevance to broadcasters in the sense that they must meet the requirements related to the equipment. Again, details are to be given in regulations by the Minister. It is questionable why the Minister, rather than the Agency itself, should issue the regulations. Without having all the detail on conformity assessment procedures, it is difficult to make a complete evaluation of these provisions, but they appear to be in line with international and EU requirements and should be interpreted so as not to block movement of equipment provided it meets certain standards. When Croatia joins the EU, no equipment rules must be construed so that they provide obstacles to the free movement of goods unless specifically justified according to EU law. Even before EU membership, maximum free movement should be the norm and this also appears to be an aim of these provisions. (In Article 95, paragraph 1 the reference to Articles 2 and 3 is difficult to understand – it may be a typing error and should read paragraphs 2 and 3?).

## **Chapter XI. Electromagnetic Compatibility and Interference Protection**

These provisions do not apply especially to broadcasters, who are only affected by them in the general sense that they must ensure avoidance of such interference by their equipment. Article 98 sets out the responsibility to remove interference for the owner of a broadcasting network. In Article 99, there are some provisions for the removal of interference which seem to be based on the assumption that all interference is likely to be unintentional and can be sorted out amicably. A major source of interference to bona fide broadcasters are ‘pirates’, namely broadcasters operating without a licence. There should be clear procedures available for the Agency (or the police on notification from the Agency) to be able to track down unlicensed spectrum users and remove their equipment forthwith (without a 30 day notice period) as part of the procedure set out in Articles 108 and 109. This is not only important to protect the business interests of broadcasters, but for Croatia’s own public services; for example, pirate radio broadcasts can have – devastating – consequences by interfering with spectrum used for aviation.

## **Chapter XII. Data Protection**

These provisions do not directly concern broadcasters, but deal with the confidentiality of telecommunications and related issues (calling line identification, location data, directories, etc).

## **Chapter XIII. Supervisory Inspection and Control**

Given what has been said about the importance of an independent and professional regulatory agency that can function well, the supervisory control that Article 108 stipulates would appear to also be a task for the Agency and inspectors under it, rather than the Ministry. The current model appears to have a combination of direct ministerial control and Agency control. It is not clear that the Ministry must have this role. It would be better if the Agency was responsible and in the cases referred to in paragraph 5, the police (or if necessary, the ministry responsible for police matters) assisted the Agency. This way, the responsibility would clearly rest with one body. The close connection with measures to be taken under Article 109 would also appear to underline that these are normal tasks for the Regulatory Agency under which competence should also lie for inspection and sanctions. As for the provisions on appeal

(Article 110), see the comments above about the equivalence of the stipulated process to an appeals process.

#### **Chapter XIV. Penalty Clauses**

No provisions in this chapter are included in the draft version submitted for this report.

#### **Chapter XV. Transitional and Final Provisions**

As a general remark, it is important that these provisions really take into account all previous relevant laws and organs, so that the full transition to the new system is ensured to be smooth. This is all the more important as there were several bodies and several laws regulating the area before and as also there will now be more than one law. There must be co-ordination in the transition from the two different laws and it is essential that the entry into force and the setting up of organs is harmonised. It is also important that any transitional provisions on the staying in force of licences are harmonised. On the face of it, these provisions do appear to allow for a smooth transition (with Article 114 especially concerning the Council for Electronic Media) but it is still relevant to underline the crucial importance of harmonisation so that an extra check is made when it is clearer when this law as well as the Law on Electronic Media will enter into force. The time limits in Article 115 for the transition and the creation of the Regulatory Agency appear very short, but if this is deemed realistic, it is acceptable. It is not clear whether the members of the previous bodies may become members of the new agency.

#### **Concluding remarks**

As a brief summary of remarks made, the following can be pointed out as the most central ones:

- The draft law could more clearly state the principles of transparency, objectivity, non-discrimination and proportionality
- The law should set out more explicitly that it does not regulate matters related to broadcasting other than frequency matters (and some provisions in relation to equipment, but this does not need to be said explicitly)
- The requirement for co-operation with the Council for Electronic Media (and the Ministry responsible for this) should be set out
- The frequency management provisions should refer to the Council for Electronic Media in that this body should be the one responsible for the licensing process vis-à-vis broadcasters and the Telecommunications Agency should just deal with the wider policy issues of frequency assignment, in line with normal principles, in consultation with the Council, and with a view to harmonising different uses of spectrum.

## **Appendix**

### **DRAFT OF THE PROPOSED LAW ON COMMUNICATIONS AND INFORMATION TECHNOLOGY**

**Zagreb, May 2003**

#### **I. THE CONSTITUTIONAL BASIS FOR PASSING THE LAW**

The Constitutional basis for passing this Law is the provision in Article 2, paragraph 4, item 1 of the Constitution of the Republic of Croatia.

#### **II. ASSESSMENT OF THE STATUS QUO AND ESSENTIAL ISSUES TO BE REGULATED BY THIS LAW, AND THE CONSEQUENCES ARISING FROM THE PASSAGE THEREOF**

##### **Assessment of the status quo**

The area of telecommunications is regulated by the Law on Telecommunications (Official Gazette, No. 76/99, 128/99, 68/01 and 109/01), the Law on the Separation of the Croatian Post and Telecommunications into the Croatian Postal Services and Croatian Telecommunications (Official Gazette, No. 101/98), and the Law on Croatian Radio and Television (Official Gazette, No. 26/03).

The Law on Telecommunications now in effect regulates all matters relating to telecommunications, radio, television and cable television as well as the relationship between telecommunication services providers and the user. The Law regulates the establishment of the Council for Telecommunications as a legal person and independent regulator. The Council is established by the Republic of Croatia in order to decide on granting concessions for telecommunication activities, and other regulatory matters in the area of telecommunications other than the activities relating to radio and television.

The same Law regulates that the preparation of legislation proposals to be issued by the Council for Telecommunications in the execution of its public duties (granting concessions, issuing decisions and rulings relating to the regulation of relationship between service providers in the market of telecommunications services) is carried out by a legal entity established by the Republic of Croatia – the Croatian Institute for Telecommunications. In addition to the above tasks, the Croatian Institute for Telecommunications pursuant to the current Law on Telecommunications also issues licenses (authorisations) for radio stations and approvals for the import of radio stations, harmonises the use of radio frequencies at national and international level, monitors the radio frequency spectrum, supervises the execution of the Law on Telecommunications as well as other tasks.

The current Law on Telecommunications also regulates the financing of the Council for Telecommunications and the Croatian Institute for Telecommunications in such a manner as to ensure that the funding for the execution and development of activities of the Council for Telecommunications and the Croatian Institute for Telecommunications are from the same sources, specifically:

1. fees for the use of radio frequencies, not less than 10%,
2. fees for the use of addresses and numbers,
3. 0.2% of the total annual gross revenues of concessionaires of telecommunications services and cable television for the previous year, and of Internet service providers from the concessioned, i.e. registered telecommunications services, except for the concessionaires of radio and television.

The current Law on Telecommunications regulates issues relating to radio and television, such as the establishment and competences of the Council for Radio and Television, a regulatory body the members of which are appointed by the Croatian Parliament. The Council for Radio and Television grants and withdraws concessions for radio diffusion.

On the basis of a strategy *Information and Communication Technology* (Official Gazette, No. 109/02.), and a project *Croatian Telecommunications Market*, based on the debate held at governmental level of the Republic of Croatia on 6 February 2001, and other documents drafted according to respective EU Directives and other

regulations, the following general objectives for the development of telecommunications and information technology (electronic communications) in the Republic of Croatia are laid down:

- the creation of a regulatory framework for faster and more comprehensive adjustment and active participation in the new information society in line with the guidelines set forth in the *Green Paper* on the convergence of the telecommunications, media and information technology sectors;
- active participation in the development of information and communication technology (ICT), through the implementation of the development strategy, respective statutory provisions and secondary legislation, as well as research, development, production and application;
- the creation of conditions for the liberalization of the market for information and communication services and facilities and the necessary adjustment and harmonisation between Croatian legislation and EU *acquis communautaire*;
- the creation of conditions for comprehensive compliance with the regulations and standards of up-to-date European electronic communications **systems**, such as the Trans-European network for electronic exchange of data between administrations (IDA), the Electronic system for the exchange of information on frequencies (EFIS), the Telecommunications information transport system (RTTT) and other;
- a modern audiovisual policy in regulating the relationship between public radio and television (Croatian Radio and Television) and commercial radio and television stations – the concessionaires of radio and television (EU Directive Television without Frontiers).

Given the shortcomings experienced in practice and inadequate compliance of the current Law with respective Directives and other EU regulations, a new Law on Telecommunications has been drafted.

The proposed text defines the principles in very general terms according to which the relationships in the area of telecommunications and information technology are regulated. The first principle of the Law focuses primarily on the interests of telecommunications services users (the legal protection of service users, the creation of adequate conditions to meet the needs of telecommunications and IT services users, and the provision of the highest quality service). The second, no less important principle, relates to the creation of free and open access to the telecommunications market which will allow and guarantee all participants an equal and non-discriminatory position (a principle of fostering market competition, efficiency, interconnection of telecommunications networks, i.e. operators, according to equal and mutually acceptable conditions).

While the principle of economic and efficient use of the radio frequency spectrum arises from an objective limitation of this natural resource, within the context of other proposed principles, it should ensure the conditions for the development of modern telecommunications in the Republic of Croatia.

In conclusion, the objective and purpose of the proposed text is its harmonisation with international standards, practice and technical achievements in order to improve the development of telecommunications in the Republic of Croatia and enable connection with European and worldwide telecommunications.

#### **Fundamental issues to be regulated by this Law**

The following EU Directives and recommendations have been incorporated in the draft of the proposed Law on Telecommunications and Information Technology:

- Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)
- Directive 2002/20/EC on the license of electronic communications networks and services (Authorisation Directive)
- Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (Framework Directive)
- Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)
- Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)
- Directive 2002/77/EC on competition in the markets for electronic communications networks and services
- Decision No 676/2002/EC on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)

- Regulation (EC) No 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop
- Directive 1999/5/EC on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity
- Decision No128/1999/EC on the coordinated introduction of a third-generation mobile and wireless communications systems (UMTS) in the Community Directives 98/61/EC and 97/33/EC with regard to operator number portability and carrier pre-selection
- Directive 98/10/EC on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment
- Directive 97/51/EC amending Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment on telecommunications
- Directive 97/66/EC concerning the processing of personal data and the protection of privacy in the telecommunications sector
- Directive 96/2/EC amending Directive 90/388/EEC with regard to mobile and personal communications
- Directive 96/19/EC amending Directive 90/388/EEC with regard to the implementation of full competition in the telecommunications services market
- Directive 95/51/EC amending Directive 90/388/EEC with regard to the abolition of the restrictions on the use of cable television networks for the provision of already liberalized telecommunications services
- Directive 94/46/EC amending Directive 83/301/EEC and Directive 90/388/EEC in particular with regard to satellite communications
- Directive 92/44/EEC on the application of open network provision (ONP) to leased lines
- Directive 91/287/EEC on the frequency band for digital European cordless telecommunications
- Directive 1990/387/EEC on internal market for telecommunications services through the implementation of ONP)
- Directive 90/388/EEC on the competition in the markets for telecommunications services
- Directive 90/544/EEC on the frequency bands for land-based public radio paging
- Directive 1989/336/EEC on the approximation of the laws of the member States relating to electromagnetic compatibility
- Directive 86/361/EEC on the initial stage of the mutual recognition of type approval for telecommunications terminal equipment.

This Law shall regulate the following fundamental issues:

- Principles and objectives of the regulation of telecommunications
- Protection of the national interest in the area of telecommunications
- Establishment of an independent national regulator
- Appointment of members to the independent national regulator (the Council of the Croatian Agency for Telecommunications)
- Scope of the activities and competences of the Croatian Agency for Telecommunications
- Financing of the activities of the Croatian Agency for Telecommunications
- Telecommunications infrastructure
- Telecommunications services
- Rights to provide telecommunications services (concessions, notifications)
- Transfer of a concession
- Modification of a concession
- Withdrawal of concessions
- Termination of concessions
- Fees for notifications and granting concessions
- Universal telecommunications services (the scope of universal services, the obligation of provision of and the quality of service)
- Fund for universal telecommunications services
- Market competition
- Open network provision and interconnections
- Service providers/operators having a significant market power
- Open network provision and interfaces
- Minimal requirements for leased lines
- Access to and interconnection of networks
- Regulation of prices
- Numbering and addressing
- Management of the radio frequency spectrum

- Monitoring of the radio frequency spectrum
- A Plan for the purpose of the radio frequency spectrum
- A Plan for the use of the radio frequency spectrum
- Granting radio frequencies
- Usage fees for the use of radio frequencies
- Radio equipment and telecommunications terminal equipment
- Radio equipment and telecommunications terminal equipment (R&TT equipment)
- Supervision of radio equipment and telecommunications terminal equipment
- Electromagnetic compatibility (EMC) and protection measures
- Confidentiality of data
- Supervisory inspection
- Penalty provisions
- Transitional and final provisions

#### **Consequences stemming from the passing of this Law**

The Law on Telecommunications and Information Technology shall meet the following requirements:

- a comprehensive harmonisation with the EU *acquis communautaire*;
- the omission of the provisions regulating the content of electronic media, such as those relating to programme conditions and criteria, language use, commercials, teleshopping and sponsored programmes, and such other provisions the aim of which is to harmonise electronic media with the ratified European Convention on transfrontier television and the Protocol on the amended Convention, as well as the regulation of the laid down contents in a special piece of legislation for the media yet to be passed;
- the regulation of relationships and conditions for the application of up-to-date multimedia information technologies, and if necessary, of other activities within the area of information society not currently regulated;
- more targeted and transparent separation of, and the definition of the tasks and competences of national authorities responsible for telecommunications and information technology (currently the Directorate for Post and Telecommunications within the Ministry of Maritime Affairs, Transport and Communications); the tasks and competences of national regulatory authorities (NRA) in the area of telecommunications and information technology (currently The Council for Telecommunications which is not responsible for all information services) and in the area of audiovisual (electronic) media (currently the Council for Radio and Television); the tasks and competences of the Croatian Institute for Telecommunications, as an expert body of both set forth regulators with defined, strictly determined public authority.
- funds for financing regulatory bodies will be reduced since the usage fees for the radio frequencies, addresses and numbers, paid by concessionaires and providers of telecommunications services, out of which the Council for Telecommunications and The Croatian Institute for Telecommunications were financed, shall be budgetary revenues.

### **III. ASSESSMENT AND FINANCIAL RESOURCES NECESSARY FOR THE IMPLEMENTATION OF THE LAW**

No additional funds for the implementation of this Law from the State Budget shall be necessary. The charges stipulated by this Law shall be budgetary revenues.

The activities of the Croatian Agency for Telecommunications shall be financed by 0.2% of the total gross annual revenues earned in the previous year by concessionaires and telecommunications services providers in carrying out telecommunications services and activities. In this Law, relative to the previous one, the provisions relating to the financing of a regulatory body out of usage fees for the radio frequencies and numbers and addresses have been deleted.

### **IV. THE DRAFT OF THE PROPOSED LAW**



## **DRAFT OF THE PROPOSED LAW ON TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY**

### **I. GENERAL PROVISIONS**

#### **The content of the Law**

##### *Article 1*

This Law shall regulate the area of telecommunications, radio communication and information technology, the manner and conditions for carrying out telecommunications services and activities, the rights and obligations of the providers and users of telecommunications services, the construction, maintenance and use of telecommunication infrastructure and facilities, radio equipment and telecommunication terminal equipment, the management of the radio frequency spectrum, the address and number space in the Republic of Croatia, electromagnetic compatibility, legal protection of telecommunications databases, and the carrying out of supervision and monitoring in telecommunications in compliance with treaties and agreements binding for the Republic of Croatia, as well as with the relevant EU Directives and Recommendations.

#### **National interest**

##### *Article 2*

Construction, maintenance, development and use of the telecommunications infrastructure and facilities, management and use of the radio frequency spectrum, addressing and numbering as naturally scarce resources, and carrying out of public telecommunications services and activities are to be in the public interest of the Republic of Croatia.

#### **Competent state bodies**

##### *Article 3*

(1) The Government of the Republic of Croatia shall adopt a Strategy for the development of telecommunications and information technology in the Republic of Croatia, a fundamental strategic document establishing on a long term basis the fundamental principles and guidelines for the future development of telecommunications and information activities and setting priorities in the planning thereof.

(2) The proposition of the Strategy referred to in paragraph 1 hereof shall be drafted by a ministry competent for telecommunications (hereinafter: Ministry) in cooperation with the ministry competent for science and technology, the Office for Development Strategy and the Office for International Computer Networking of the Government of the Republic of Croatia.

(3) The bodies of state administration referred to in paragraph 2 hereof shall be responsible for the implementation of the Strategy under paragraph 1 hereof, and for taking measures to advance the development of telecommunications and information technology.

(4) In situations of war or an immediate threat to the independence or unity of the State, or in the situation of a major natural disaster, or the breakdown of fundamental telecommunications services, the Government of the Republic of Croatia shall in order to ensure the provision of such services authorise the Ministry to take the necessary measures.

(5) The Ministry shall represent the Republic of Croatia in international telecommunications organizations and institutions and be responsible for the implementation of treaties, agreements and conventions in the area of telecommunications. The Ministry shall take part in the work of the bodies and expert groups of such international organizations and institutions, or authorise the Croatian Agency for Telecommunications or other competent bodies to do so.

(6) The Ministry shall carry out supervisory inspection in the area of telecommunications in compliance with the provisions of this Law.

- (7) The Ministry shall carry out administrative supervision of the Croatian Agency for Telecommunications.

### **A competent regulatory body**

#### ***Article 4***

The Republic of Croatia shall establish the Croatian Agency for Telecommunications as a national regulatory agency to carry out regulatory and other matters within the scope and competence determined by this Law and in compliance with relevant EU Directives and Recommendations.

### **Principles and objectives relating to the regulation of the telecommunications market**

#### ***Article 5***

- (1) The Croatian Agency for Telecommunications, in carrying out regulatory matters determined by this Law, shall in particular:

1. protect the interests of users of telecommunications services, including disabled users and users with special social needs and protect the confidentiality of telecommunications information and personal data and the confidentiality of telecommunications services users,
2. ensure and promote efficient market competition in the telecommunications market, with equal opportunities for all market participants, and encourage efficacy of investment in the telecommunications infrastructure,
3. encourage access to the market for new service providers and the introduction of new, innovative telecommunications services and technologies,
4. ensure the respect of principles relating to open network provision,
5. guard against abuse of the telecommunications market,
6. ensure the provision of universal telecommunications services of acceptable quality over the whole territory of the Republic of Croatia, at affordable prices,
7. ensure efficient management and unhindered use of the radio frequency spectrum,
8. ensure efficient management and unhindered use of addressing and numbering space,
9. encourage telecommunications services in civil and public services,
10. ensure the protection of public order, defence and national security.

- (2) In order to achieve the principles and objectives laid down in paragraph 1 hereof, the Croatian Agency for Telecommunications shall cooperate with the body responsible for the protection of market competition and the body responsible for the protection of consumers' rights in compliance with special laws regulating matters regarding the protection of market competition and the protection of consumers' rights.

- (3) To all other matters relating to telecommunications services and the market activities of legal entities and natural persons, which are not regulated by this Law, the provisions of a special act regulating the protection of market competition shall apply.

### **Exceptions to the application of the Law**

#### ***Article 6***

This Law shall not apply to telecommunications and radio facilities and radio stations installed and used exclusively for the needs of the armed forces of the Republic of Croatia, the police and security forces of the Republic of Croatia, and radio frequencies for the operation thereof shall be agreed upon with the Croatian Agency for Telecommunications.

### **Definitions**

#### ***Article 7***

For the purposes of this Law the terms used herein shall have the following meanings:

1. *address*: a totality of all addressing elements used for the determination a telecommunications connection.
2. *amateur radio station*: a radio station operating in the frequency band assigned to a radio amateur service.
3. *numbers*: a set of numbers used for addressing within the telecommunications network.
4. *service provider*: a legal entity or a natural person providing public telecommunications services on the market pursuant to the provisions of this Law.
5. *assignment of numbers and addresses*: transfer of rights to use numbers and addresses, without the transfer of property rights of said numbers and addresses.
6. *electromagnetic compatibility (EMC)*: the ability of an appliance, equipment or system to operate in a satisfactory manner within its electromagnetic environment without causing any harmful electromagnetic interference to other equipment or systems within this environment.
7. *addressing elements*: signs, letters, digits and signals for a targeted selection of destination of telecommunications connections.
8. *citizens band radio station (CB)*: a radio station operating in a frequency band assigned to citizens.
9. *public telecommunications network*: a telecommunications network used for public telecommunications.
10. *public telecommunications*: market provision of telecommunications services to any natural or legal persons.
11. *public voice services*: actual-time speech transmission services through the public telecommunications network.
12. *public telecommunications services*: market oriented telecommunications services provided to a natural person or a legal entity.
13. *cable distribution services*: telecommunications services relating to the transmission of radio and television programmes and associated data, transmitted from a single centre to users of the cable distribution network also used for the provision of other telecommunications services, except for public voice services.
14. *concessionaires*: a legal person which has been granted a specific concession and which has concluded an agreement on the concession according to the provisions of this Law.
15. *service users*: a natural person or a legal entity using or requesting a publicly available telecommunications service.
16. *local loop*: the physical circuit connecting the network connection end point at the subscriber's terminal to the main distribution frame or equivalent facility in the fixed public telecommunications network.
17. *international telecommunications service*: making a telecommunications capacity available to other telecommunications centres or stations of any nature which are located in or belong to different countries.
18. *interconnection*: network provision establishing physical and logical linking between public communications networks to enable direct or indirect communication to users connected to different networks.
19. *microwave connection*: telecommunications connection realized through direct radio communication.
20. *fixed telecommunications network*: a telecommunications network which does not include a mobile telecommunications network.
21. *operator (carrier) selection*: this service enables users to select a carrier of public telecommunications services, who will act as a mediator in providing telecommunications connections, realize pre-selected types of telecommunications connections in fixed network. The selection may be pre-programmed or may be achieved by dialling a specific code or any other procedure for such a rerouting.
22. *operator*: service provider, a legal person who, *de jure* and *de facto*, exercises control over all the functions necessary for the provision of public telecommunications services via telecommunications, telecommunication infrastructure, facilities or equipment or radio stations.
23. *universal telecommunications services*: a minimum set of telecommunications services of a specified quality, which are available to every end user in the Republic of Croatia regardless of their geographical location and at affordable prices.
24. *addressing plan*: a totality of all possible combinations of addressing elements used for the unique identification of persons, computer processes, machines, facilities or telecommunications equipment included in the provision of a telecommunications connection.
25. *numbering plan*: a totality of all possible combinations of addressing elements by means of digits for the purposes of the unique identification of persons, computer processes, machines, facilities or telecommunications equipment included in the provision of a telecommunications connection.
26. *coverage area (service area)*: a geographic area enabling radio communications of a required quality.
27. *mobile telecommunications network*: a telecommunications network enabling the establishment of telecommunications connections also in the circumstances of physical movement of the network user.
28. *mobile radio station*: a radio station enabling communication also in the circumstances of physical movement of the radio station user.

29. *carrier pre-selection*: a service enabling users to select a carrier (provider) of public telecommunications services, who acts as a mediator in providing telecommunications connections (and has a contract with a user), which enables a pre-selected type of telecommunications connections in a fixed network, without dialling a specific code or any other procedure for such a rerouting.
30. *portability of a number*: the possibility of a subscriber to keep their address when changing a service provider or location.
31. *subscriber*: a legal or natural person who has signed an agreement with a provider of public telecommunications services for the purposes of using these services.
32. *transmission lines*: telecommunications lines such as cable or radio connections with associated facilities for end-to-end connectivity and end to several ends.
33. *open network provision*: a physical and logical connection of terminal and other equipment to the telecommunications network or any part thereof, as well as physical and logical connections between two telecommunications networks or any of their parts in order to use the functions thereof or services provided by this network.
34. *private telecommunications network*: a telecommunications network with the provision of services only to users belonging to closed groups and which is used only for the needs of legal and natural persons, and not for the provision of public telecommunications services.
35. *professional mobile radio (PMR)*: a part of land-based mobile radio communications based on the use of simplex, semi-duplex and, as an exception, duplex operation at terminal level to enable communications for closed groups of users.
36. *radio network*: a network with more than two radio stations between which radio communication is enabled.
37. *radio equipment (RE)*: a product or its respective component enabling communication by emitting or receiving radio waves by means of a spectrum intended for terrestrial/ satellite radio communications.
38. *radio station*: one or several radio transmitters or receivers, or a combination thereof, including associated facilities necessary for radio communication service.
39. *radio communications*: telecommunications via radio waves.
40. *radio*: public telecommunications emitting sound, voice or speech as well as other signals intended for direct reception in public via a transmitter on the Earth or a satellite (*Sound Broadcasting*).
41. *radio frequency spectrum*: electromagnetic frequency waves ranging from 9 kHz to 3000 GHz, radiating without being guided.
42. *radio communications service*: radio communications complying with the Radio Regulations of the International Telecommunications Union (ITU).
43. *access to the local loop*: full access to the local loop and shared access to the local loop as stipulated under respective directives and other EU regulations on unbundled access to the local loop where there is no change of owner of the local loop.
44. *interference*: the impact of unintended energy, caused by the impact of one or a combination of several emissions, radiation or induction on reception in any of radio communications systems, expressed as a distortion of any of the system characteristics, inaccurate presentation or loss of data which would have otherwise not occurred.
45. *harmful interference*: interference that jeopardizes the operation of a radio navigation service or some other safety service, or severely reduces the quality, interferes with or repeatedly interrupts a radio communications service which operates in accordance with ITU Radio Regulations.
46. *telecommunications*: every conveyance, transmission and reception of any type of communication or message in the form of signs, signals, written text, voice or speech, images or sounds by means of a telecommunications system.
47. *telecommunications infrastructure*: basic components of the telecommunications network or system such as land, construction works or building, access path, power supply, heating, water supply, cable canalisation routes and other.
48. *telecommunications network*: transmission lines, transmission, commutation and other technical equipment enabling the conveyance of signals between defined connection end points by wire, optical, radio or other electromagnetic means.
49. *telecommunications equipment*: equipment necessary to provide telecommunications services.
50. *telecommunications terminal equipment (TTE)*: a product or its respective component which enables direct or indirect communications by means of equipment connected to the interface of a public telecommunications network to convey, process or receive information or data.
51. *telecommunications services*: services of conveyance, transmission or reception of signs, signals, written text, voice or speech, images or sounds or information of any nature provided by a wire, optical or other electromagnetic system, including the use of such systems wholly or in part, by leasing, sale or some other way.

52. *telecommunications system*: every technical system composed of respective equipment, including a wire, radio, optical or any other electromagnetic system, capable of conveying, transmitting, switching, receiving, steering or controlling electromagnetic or optical signals identifiable as messages or communications.
53. *telecommunications connection*: a connection established for the conveyance, transmission or reception of signals, written text, voice or speech, images or sounds or communication of any nature,
54. *telecommunications line*: a transparent telecommunications transmission capacity between connection end points of a network without a switching function (commutation).
55. *teleshopping*: the sale, purchase or leasing, of products or movables or real estate and provision of services via radio or television.
56. *television*: public telecommunications conveying sound, picture and other signals intended for direct reception in public by means of transmitters on the earth or a satellite (Television Broadcasting).
57. *common antenna systems*: an array of technical equipment for the direct reception of radio and television programs and their distribution to a group of users of receivers in a residential or office building, or on a smaller limited geographically non disrupted area, by means of lines intended for the distribution of radio and television programs, provided that the program distribution is not commercial, i.e. that there are no charges for receiver users.
58. *connection end-point*: all physical links with associated termination means which are part of a communications network necessary for linking terminal equipment to the network.

## **II. CROATIAN AGENCY FOR TELECOMMUNICATIONS**

### **Establishment of the Agency**

#### *Article 8*

- (1) The Croatian Agency for Telecommunications (hereinafter: the Agency) is an independent and autonomous legal entity with public authority, recorded in the register of companies.
- (2) The founder of the Agency is the Republic of Croatia, and the foundation rights pursuant to the provisions of this Law shall be exercised by the Croatian Parliament and the Government of the Republic of Croatia. The Agency shall be responsible for its work to the Croatian Parliament and the Government of the Republic of Croatia.
- (3) Any form of influence on the work of the Agency that might jeopardize its independence or autonomy, and in particular the use of public authority and public media, and any public appearance in general with the intention to influence the work of the Agency shall be prohibited.
- (4) The work of the Agency shall be public.
- (5) The seat of the Agency shall be in Zagreb.
- (6) The internal organization of the Agency, Agency administrative acts and other matters important for the work and operation of the Agency shall be regulated in detail by the Agency Statute, subject to prior approval of the Government of the Republic of Croatia.

### **The Agency Council**

#### *Article 9*

- (1) The Agency shall be managed by the Agency Council composed of five members, to be appointed and discharged from duty by the Croatian Parliament at the proposal of the Government of the Republic of Croatia. The Government of the Republic of Croatia shall invite candidacy for membership of the Agency Council through public announcement.
- (2) Members of the Agency Council are appointed for a five-year term of office and may be reappointed.
- (3) Members of the Agency Council shall elect from among their members the president and deputy president of the Agency Council. The presidentship and deputy presidentship of the Council shall rotate

annually. The sequence of the Council presidency and deputy presidency shall be regulated by the Agency Statute.

(4) The president of the Agency Council shall present and represent the Agency, be responsible for the lawful operation of the Agency and execute other matters stipulated by law and the Agency Statute.

(5) Members of the Agency Council shall execute their duties as professionals and shall be entitled to remuneration and other such material rights in compliance with the Agency legislation.

(6) An Agency Council member may be a person who is a national of the Republic of Croatia residing in the Republic of Croatia, who holds a university degree from the Faculty of Electrical Engineering, School of Law or Faculty of the Economy, with a minimum of ten years experience in telecommunications, and active knowledge of at least one foreign business language (English, German or French), who has distinguished himself/herself in their respective field through scientific, professional or public work and is worthy to be a member of the Agency Council.

(7) Members of the Agency Council, the Agency manager and the Agency service staff may not be public servants, persons engaged in the bodies of a political party, or persons employed elsewhere, persons who carry weight with or execute some other duties in legal entities to which the provisions of this Law apply, nor may they be owners or co-owners or board members thereof, or be members of supervisory boards or management councils or execute any other duty which might entail a conflict of interest.

(8) Members of the Agency Council may write and publish scholarly papers and take part in professional and scholarly gatherings.

(9) Members of the Agency Council shall behave so as not to damage their reputation or the reputation of the Agency, or endanger their independence or autonomy in discharging their duties or the independence and autonomy of the Agency.

(10) Members of the Agency Council, the Agency manager and Agency service staff shall discharge the duties defined in this Law conscientiously, in an orderly manner and in compliance with the ethical code of conduct and profession.

(11) The Agency Council shall issue decisions with a majority vote of all members of the Agency Council. Members of the Agency Council may not abstain from voting. Decisions issued by the Agency shall be final.

(12) No appeal against the Agency's acts, which are not provisions, shall be allowed; proceedings against a decision may be initiated before the administrative court.  
Discharge from office of Agency Council members

### *Article 10*

(1) The Croatian Parliament shall discharge from office a president, a deputy president or a member of the Agency Council before the expiry of their term of office if he/she so requires, or at the proposal of the Government of the Republic of Croatia in the following cases:

1. severe professional misconduct stipulated by the Agency Statute,
2. when he/she is unable to discharge their official duties for over six months,
3. when he/she is permanently unable to discharge the duties of their office,
4. when he/she has been convicted by a final judgement,
5. when a situation as laid down in Article 9, paragraph 7 hereof occurs.

(2) The Agency Council shall inform the Government of the Republic of Croatia regarding the reasons for the discharging from office of the president, deputy president or a member of the Agency Council when discharged before the expiry of their term of office.

(3) Prior to a decision on their discharge, the president, deputy president or a member of the Agency Council must be allowed to speak regarding the reasons for their being discharged.

(4) A member of the Agency Council shall not be allowed for a year following the date of discharge from office to be employed with legal entities of a concessionaire or a provider of telecommunications services to which the provisions of this Law apply.

(5) A member of the Agency Council, following their discharge from duty before the expiry of their term of office shall be entitled to a remuneration, in the amount earned as a member of the Agency Council, up to the time when he/she will earn a salary from other employment or when he/she will be entitled to retirement pursuant to general acts, and no longer than a year from the date of discharge.

### **Staff service of the Agency**

#### ***Article 11***

(1) The Agency employs service staff organized in accordance with general acts of the Agency, which perform professional, administrative and technical tasks for the needs of the Agency. For the performance of professional and technical matters the Agency may, as appropriate, contract out to domestic or foreign legal entities in conformity with the Agency Statute.

(2) The Agency manager shall manage the service staff and will be responsible for their work to the Agency Council. The Agency manager shall organize and direct the work of the service staff, shall be responsible for regular and proper operation of the Agency and shall execute such other tasks specified under the Agency Statute.

(3) The Agency manager shall be appointed by the Agency Council following public advertisement for the post for four pursuant thereto;

(4) The Agency manager may be a person who is a national of the Republic of Croatia, having residence in the Republic of Croatia, holding a university degree in electrical engineering, law or economics, with a minimum of five years experience in telecommunications, and fluency in at least one of the following foreign languages: English, German or French, and who has a record of good organizational and managerial skills.

(5) The Agency manager may be discharged from office before the expiry of the term for which he/she has been appointed according to the conditions established under the Agency Statute.

(6) The legal status of the Agency manager and the Agency service staff, requirements for employment, salaries and other matters relating to labour relations not regulated by this Law, shall be determined by general labour legislation.

(7) With regard to all other matters relating to the establishment and operation of the Agency, not regulated by this Law, the general provisions of the Law on Institutions shall apply.

### **Scope and competence of the Agency**

#### ***Article 12***

(1) The Agency shall be responsible for the following tasks:

1. granting and withdrawing concessions in accordance with the provisions of this Law and the legislation passed any other tasks defined by this Law and the Agency Statute.
2. price and quality control of telecommunications services and approval of prices of telecommunications services in accordance with the provisions of this Law;
3. settlement of disputes between operators and service providers with the assistance of the Council of telecommunications service users, in accordance with this Law, as well as the settlements between service providers and service users;
4. issuing of decisions and rulings relating to the execution of other regulatory matters which are within the competence of the Agency in accordance with the provisions of this Law;
5. expert supervision of compliance with the requirements relating to concessions, licenses, notifications and authorities for the telecommunications services and activities stipulated by the provisions of this Law;

6. management of the addressing and numbering space in telecommunications and drafting of relating plans;
7. management of the radio frequency spectrum, development of the Table for the purpose of the of radio frequency spectrum and plans for assignment of radio frequencies;
8. harmonisation of the radio frequencies at national and international level and the assignment of radio frequencies;
9. monitoring of the radio frequency spectrum and the imposing of measures for the protection from harmful interference;
10. drafting of subordinate legislation to be issued by the Minister (?) pursuant to the provisions of this Law, at the request of the Minister (??);
11. issuing expert opinions on specific issues in the field of telecommunications and the implementation of this Law and regulations passed thereon, at the request of the Minister;
12. organization of public workshops (conferences), scholarly gatherings and public opinion polls on the issues relating to telecommunications;
13. cooperation with international telecommunications organizations and institutions and participation in the working of their expert bodies and working groups, according to the authority of or in consultation with the Ministry;
14. cooperation with foreign regulatory authorities in the field of telecommunications;
15. execution of -year term after which he/she may be reappointed. The function of the Agency manager is professional.

(2) The tasks of the Agency referred to in paragraph 1, items 1 through 9 hereof are in the interest of the Republic of Croatia, and the Agency shall carry them out in accordance with its public authority.

(3) The Agency Council shall issue: the decisions relating to all regulatory matters specified in paragraph 1, items 1 through 4 hereof, the Agency Statute and other general acts of the Agency, annual financial plans and annual balance sheet of the Agency, annual programmes of work and development of the Agency, and shall carry out other tasks stipulated by law and the Agency Statute.

### **Annual reports**

#### ***Article 13***

(1) The Agency shall submit to the Croatian Parliament and the Government of the Republic of Croatia annual reports on its operation and state of affairs regarding the implementation of the principles and aims of the telecommunications market regulation in the Republic of Croatia specified in Article 5 hereof not later than the end of March for the previous calendar year.

(2) At the request of the Croatian Parliament and the Government of the Republic of Croatia, the Agency shall within a reasonable time also submit the report specified in paragraph 1 hereof for a period shorter than a year.

### **Provision of information and confidentiality of business secrets**

#### ***Article 14***

(1) In order to perform the tasks specified in Article 12 hereof, the Agency shall be entitled to request from legal entities and natural persons who provide telecommunications services and activities according to the provisions of this Law, access to the data relevant for the provision thereof, including data considered confidential. The manner and time schedule for access to the said information shall be specified by the Agency in its request.

(2) Members of the Agency Council and the staff service of the Agency shall keep confidential the information specified in paragraph 1 hereof and such information they acquire in the performance of their duties specified in Article 12 of this Law or in any other way, unless in any specific case otherwise stipulated by law. Such information shall be considered business secrets.

(3) Only members of the Agency Council shall have access to the information specified by legal entities and natural persons referred to in paragraph 1 hereof in consultation with the Agency as business secrets.



(4) The obligation of confidentiality of business secrets referred to in paragraph 2 hereof shall cease on the expiry of five years following the discharge from office of an Agency Council member or the termination of employment of an Agency staff member.

### **Means for the execution of the Agency's tasks**

#### ***Article 15***

(1) The means for the execution of tasks of the Agency shall be ensured from the amount of 0.2% of the total annual gross income earned during the previous year by concessionaires and providers of telecommunications services for the provision of telecommunications services and activities.

(2) The amount in paragraph 1 hereof shall be paid to the Agency every three months in equal instalments, according to an invoice issued by the Agency.

(3) The amount and the manner of payment of surplus means referred to in paragraph 1 hereof, not used by the Agency in compliance with a financial plan by the end of the current financial year, shall be determined in a decision of the Government of the Republic of Croatia.

(4) Charges and fees stipulated by this Law shall be revenues of the State Budget, except for the amount specified in paragraph 1 hereof.

(5) The Agency shall be responsible for its liabilities with its overall property whilst the Republic of Croatia shall be responsible for the liabilities of the Agency jointly and severally.

(6) The liabilities of the Agency shall be paid primarily from its own sources, and only then from the budget of the Republic of Croatia.

(7) The Agency may not without a prior consent of the Government of the Republic of Croatia, acquire, encumber or sell real estate or any other property or enter into any legal transaction when the value of a contract or any other legal transaction exceeds the amount defined by the Agency Statute.

(8) The Government of the Republic of Croatia shall approve the financial plan and the annual accounts of the Agency.

## **III. TELECOMMUNICATIONS INFRASTRUCTURE**

### **Conditions for use of telecommunications infrastructure and equipment**

#### ***Article 16***

(1) Telecommunications infrastructure and equipment intended for use in the Republic of Croatia shall be designed, produced, built, maintained and used in conformity with Croatian standards, the standards of the European institute for telecommunications standards (ETSI), the standards of the European committee for standardisation / the European committee for electrical engineering standardisation (CEN/CENELEC), and the decisions, recommendations and other regulations of the International Telecommunications Union (ITU) and the European conference of post and telecommunications administrations (CEPT).

(2) The Minister may in regulations stipulate in more detail the technical specifications and the requirements for use of specific types of telecommunications infrastructure and equipment specified in paragraph 1 hereof.

(3) The telecommunications infrastructure and equipment of public telecommunications must be designed, produced and built in a manner to enable telecommunications services access also to the disabled.

(4) When building commercial or residential buildings intended for sale, the investor of a building must build cable pathways for subscribers' telecommunications lines, for cable distribution and a common antenna system, required only for this building according to the associated technical and construction documents, and also

complete telecommunications installations appropriate to the purpose of a building, including cables for cable distribution and a common antenna system in line with the main design.

(5) If the construction of a residential, business or any other building causes interference in the reception of radio or TV programmes of the users of cable distribution or a common antenna system, the investor of the building shall within 60 days from the day the interference is established, ensure at their own cost radio and TV programme reception identical to that which existed before the interference occurred.

#### **Installation, use and maintenance of telecommunications infrastructure and equipment**

##### ***Article 17***

(1) Installation and use of telecommunications infrastructure and equipment, intended for connection to the public telecommunications network or the provision of public telecommunications services, must satisfy safety requirements for network use, network integrity and interoperability of telecommunications services, and conditions for the connection of telecommunications terminal equipment, as well as the conditions for integration and application of secret surveillance of telecommunications services, to be provided, and of telecommunications operation on national and international telecommunications links, in accordance with a special decree law issued by the Government of the Republic of Croatia and regulations to be issued by the Minister.

(2) Telecommunications infrastructure and equipment shall be installed, used and maintained in such a manner as not to cause interference in the operation and use of public telecommunications, in accordance with the standards, regulations, decisions and recommendations set forth in Article 16, paragraphs 1 and 2 hereof.

(3) The operator and service provider shall ensure access to their telecommunications infrastructure and enable priority in the provision of telecommunications services to the public administrative authorities responsible for public order, defence and national security, including the relevant security services of the Republic of Croatia.

(4) The operator and service provider shall ensure priority to the free transmission of messages and calls of the service responsible for the observation and information, and any major emergency situation endangering life and property, in accordance with special provisions.

(5) The operator and service provider and the owner of the telecommunications infrastructure and equipment and the owner or the user of a radio station shall in a situation of war or an immediate threat to the independence or unity of the state, or major natural disasters, deliver telecommunications infrastructure and equipment or the radio station for the use of the competent state authorities in accordance with special regulations.

(6) The operator and service provider shall at their own expense integrate the function of secret surveillance of the telecommunications services which they provide as well as of telecommunications operation on their own national and international telecommunications links, in accordance with a special decree law issued by the Government of the Republic of Croatia and regulations referred to in paragraph 1 hereof.

(7) The operator and service provider shall automatically record telecommunications services used by their users in the whole territory of the Republic of Croatia in order to be able to calculate the costs of such services.

#### **Carrying out of works in the vicinity of telecommunications infrastructure and equipment**

##### ***Article 18***

(1) No works or construction of buildings shall be allowed in the vicinity of telecommunications infrastructure and equipment or link that may cause damage to or interfere with the operation thereof.

(2) Should it be impossible to avoid certain works or the construction of a new building as referred to in paragraph 1 hereof, the investor shall obtain prior consent from the owner of the existent telecommunications infrastructure, equipment or link in order to take the necessary measures for the protection and unhampered operation thereof.

- (3) Within the protected zone or radio corridor of radio stations, no works, construction of new buildings or installation of technical equipment which due to their operation, position, or organization could hinder the propagation of radio electromagnetic waves within the radio frequency spectrum or cause interference in radio communications shall be allowed.
- (4) The protected zone and radio corridor laid down in paragraph 3 hereof shall be regulated in more detail in regulations to be issued by the Minister.
- (5) The planting of seedlings below overhead or above underground telecommunications lines or in their immediate vicinity, or in the direction of microwave links, which could damage these telecommunications lines or which could interfere with microwave links, shall not be allowed.
- (6) Should the protection or relocation of a telecommunications infrastructure and equipment or link be necessary, because of works or construction of a new building, the investor of the works or the new building shall carry out the protection or relocation in accordance with the provisions of this Law and the regulations passed thereon.
- (7) The costs set forth in paragraphs 2 and 6 hereof shall be born by the investor of the works or the new building.

### **Usufruct of public property**

#### ***Article 19***

- (1) The operators and the Agency shall be authorized by this Law to the usufruct of public good such as roads, pathways, public areas, agricultural land, woods and woodland, other natural resources and the airspace thereabove, when according to law it is in the interest of the Republic of Croatia, for the purpose of construction, installation and maintenance of telecommunications infrastructure and associated facilities and the management thereof, subject to prior consent to be obtained from a competent state administration authority.
- (2) When the approval set forth in paragraph 1 hereof is not obtained, the operator or the Agency may take measures for the expropriation of the said property pursuant to special regulations.
- (3) The operator who obtained the usufruct to public property together with the rights arising thereof in conformity with the provisions of this Article, may transfer these rights to their legal successor or any other operator to whom their concession has been transferred, with equal rights and obligations, and no need to obtain again the approval referred to in paragraph 1 hereof.

### **Shared use of the constructed telecommunications infrastructure**

#### ***Article 20***

- (1) The operator, the service provider and concessionaire of radio diffusion services shall be entitled, provided that the technical requirement have been complied with, to make use of the constructed telecommunications infrastructure owned by other legal entities or natural persons subject to a compensation of actual costs, pursuant to a signed contract.
- (2) Should the owner of the telecommunications infrastructure refuse to conclude a contract as referred to in paragraph 1 hereof, the Agency shall at the request of the operator, the service provider and concessionaire of radio diffusion services establish within 60 days, whether the necessary technical conditions exist, and in such a case, shall pass a resolution which shall be deemed to constitute a contract.

#### **IV. TELECOMMUNICATIONS SERVICES**

##### **Types of telecommunications services**

###### ***Article 21***

- (1) Telecommunications services in fixed and mobile telecommunications networks include:
1. public voice services,
  2. transmission of data, sound, documents, pictures and other matter via the telecommunications network,
  3. leasing telecommunications lines,
  4. leasing a telecommunications network or any of its parts,
  5. radio diffusion services,
  6. re-broadcasting of radio and TV programmes in limited areas of smaller size,
  7. services of cable distribution,
  8. other telecommunications services relating to the services set forth in items 2 through 7 hereof.
- (2) Other telecommunications services include:
1. transmission of speech, sound, data, documents, pictures and other matter via terminal equipment, linked to the telecommunications network of other service providers (value added services, web-site services, electronic mail services and other),
  2. transmission of speech, sound, data, documents, pictures and other matter via a telecommunications capacity in the fixed and mobile satellite service.
- (3) The manner, procedure and conditions for the provision of telecommunications services set forth in paragraphs 1 and 2 hereof as well as the relationship with the subscribers shall be regulated by regulations on telecommunications services to be issued by the Minister.

##### **Concession to provide public telecommunications services by means of the radio frequency spectrum**

###### ***Article 22***

- (1) The right to provide public telecommunications services in the mobile telecommunications network referred to in Article 21, paragraph 1 hereof, requiring the use of the radio frequency spectrum, the company shall obtain after being granted a concession and upon signing a contract on the concession. A decision granting a concession shall be issued following a public tender.
- (2) The right to provide public telecommunications services in the fixed telecommunications network, referred to in Article 21, paragraph 1 hereof, which requires the use of the radio frequency spectrum, a company shall obtain after being granted a concession, which is granted on request, and upon signing a contract on concession.
- (3) Without prejudice to the provision set forth in paragraph 2 hereof, the procedure for granting concessions for the provision of radio diffusion services shall be regulated in a special law regulating the area of electronic media.

##### **Alternative to paragraph 3**

- (3) Without prejudice to the provision set forth in paragraph 2 hereof, the procedure for granting concessions for the provision of radio diffusion services shall be carried out by the Agency according to the provisions of this Law and the regulations passed pursuant thereto, and special regulations regulating the area of electronic media. A decision on concessions for the provision of radio diffusion services shall be issued by the Agency pursuant to a proposal of the Council for Electronic Media, which is responsible for the examination, comparison and evaluation of evidence regarding the capacities to satisfy programme, financial and personnel requirements necessary for the provision of radio diffusion services, presented in offers in a public tender, in compliance with special regulations regulating the area of electronic media.

- (4) The technical requirements for a public tender and for the submission of requests for concessions for the use of the radio frequency spectrum must comply with the regulations on the purpose of the radio frequency spectrum referred to in Article 71, paragraph 1 hereof.
- (5) On receipt of a request for a concession as set forth in paragraph 2 hereof, the Agency shall publish a notice thereof in the Official Gazette, together with fundamental technical characteristics so as to enable other interested companies to apply for a concession within the same frequency band. If within 45 days from the day the notice was published, the number of requests received by the Agency exceeds the capacity of the available radio frequency space, the invitation for tenders will be made void and a new public tender for granting concessions shall be announced according to the provisions of this Law, not later than 90 days from the day the said notice was published.
- (6) One company may submit only one application for a concession within a given radio frequency spectrum.
- (7) A decision on concessions for the provision of telecommunications services referred to in paragraphs 1 and 2 hereof shall be granted by the Agency.
- (8) A concession for the provision of telecommunications services, granted pursuant to a public tender, may be granted to a company which may verify that it will be able to comply with technical, technological, financial, space and staffing conditions necessary for the provision of a specific type of telecommunications services, in conformity with the bidding documentation and criteria defined in the regulations on concessions and a licence for the provision of telecommunications services issued by the Minister.
- (9) A concession for the provision of telecommunications services, granted pursuant to a submitted application, may be granted to a company which may verify that it will be able to comply with technical, technological, financial, space and staffing conditions necessary for the provision of a specific type of telecommunications services, in conformity with the criteria defined in the regulations referred to in paragraph 8 hereof.
- (10) The duration and area covered by a concession for the provision of telecommunications services referred to in paragraphs 1 and 2 hereof, special conditions relating to the quality of telecommunications services, users' access to telecommunications services and availability of telecommunications systems shall be regulated in the regulations referred to in paragraph 8 hereof.
- (11) For the construction, installation and use of private telecommunications networks and associated telecommunications infrastructure and facilities, of networks for the needs of a professional mobile radio (PMR), of microwave links of the end to end connectivity type, and of networks using the free radio frequency spectrum, the concession referred to in paragraph 1 hereof shall not be a requirement.
- (12) The networks of a professional mobile radio (PMR) set forth in paragraph 11 hereof may be linked to the public telecommunications network subject to approval given by the Agency.
- (13) Without prejudice to the provision in paragraph 1 hereof, virtual mobile operators may provide public telecommunications services pursuant to the license set forth in Article 23 hereof.

### **License to provide telecommunications services**

#### ***Article 23***

- (1) The rights to provide telecommunications services referred to in Article 21, paragraph 1 hereof, not requiring the use of the radio frequency spectrum shall be obtained by virtue of a license.
- (2) The license for the provision of telecommunications services referred to in paragraph 1 hereof shall be issued at the request of a legal entity.
- (3) The application for a license referred to in paragraph 2 hereof, shall contain specifically:
- name and address of the applicant,
  - description of telecommunications services to be provided,

- a business plan for the provision of telecommunications services,
  - evidence of the capability of a company to satisfy technical, financial, space and staffing requirements necessary for the provision of telecommunications services.
- (4) Specific requirements that the application referred to in paragraph 3 hereof must contain, depending on the type and complexity of telecommunications services, shall be regulated in the regulations referred to in Article 22, paragraph 8 hereof.
- (5) The license to provide telecommunications services referred to in paragraph 1 hereof shall be issued by the Agency, not later than 60 days from receipt of the application.
- (6) Should the application for granting a license referred to in paragraph 2 hereof fail to comply with the requirements referred to in paragraph 3 hereof, the Agency shall issue a decision on the refusal of application to issue a license.
- (7) The license to provide telecommunications services referred to in paragraph 1 hereof, must contain in particular all essential information on the legal entity which will provide a telecommunications service, the type of telecommunications services and the area for the provision thereof. The regulations set forth in Article 22, paragraph 8 hereof may stipulate additional information to be contained in this license.
- (8) Should the Agency establish that the legal entity which has been granted a license for the provision of telecommunications services as referred to in paragraph 1 hereof, has failed to comply with the conditions thereof, it shall specify a reasonable term for the legal entity to rectify the established incompliance.
- (9) Should the legal entity referred to in paragraph 8 hereof fail to rectify the incompliance established within the specified term, the Agency shall issue a ruling on the withdrawal of the license, whereby the legal entity shall lose the right to provide telecommunications services, without the right to claim damages.

#### **Notification for the provision of telecommunications services**

##### ***Article 24***

- (1) The right to provide telecommunications services referred to in Article 21, paragraph 2 hereof, shall be obtained by the legal entity or natural person by submitting a written notification to the Agency.
- (2) The written notification referred to in paragraph 1 hereof shall contain in particular the following:
- the name and address of the applicant,
  - the description of telecommunications services applied for.

#### **Telecommunications services using the free radio frequency spectrum**

##### ***Article 25***

- (1) The right to provide telecommunications services by using the free radio frequency spectrum referred to in Article 21, paragraphs 1 and 2 hereof shall be obtained pursuant to the license referred to in Article 23 hereof.
- (2) Providers of public telecommunications services referred to in paragraph 1 hereof must notify to the Agency the installation of any radio station operating pursuant to the general license referred to in Article 82 hereof.
- (3) The application referred to in paragraph 2 hereof must contain in particular the following:
- geographical position, and if existent, the address of the installed radio stations,
  - a coverage area (range) of the installed radio stations,
  - distance between the points linked by the end-to-end connectivity,
  - essential data regarding the radio station (producer, the type of equipment, essential technical data),
  - the data on technical characteristics of the antenna system used,

- essential data regarding the service user,
- a statement that the installation of a radio station complies with the requirements in the general license.

### **Granting concessions**

#### ***Article 26***

- (1) Concessions for the provision of telecommunications services referred to in Article 22 paragraphs 1 and 2 hereof shall be granted following a public invitation for tenders or a submitted application.
- (2) The public invitation for tenders referred to in paragraph 1 hereof shall be announced by the Agency, and the decision on the invitation for tenders shall be published in the Official Gazette or in some other appropriate way.
- (3) The content and procedure for public invitation for tenders and processing the applications referred to in paragraph 1 hereof shall be stipulated in detail in the regulations referred to in Article 22, paragraph 8 hereof.

### **Contract on concession**

#### ***Article 27***

- (1) Pursuant to the decision for granting concessions referred to in Article 22, paragraph 7 hereof, a company shall sign with the Agency a contract on concession within 30 days from issuing the decision thereof.
- (2) A proposal of the contract on concession referred to in paragraph 1 hereof shall be an integral part of the bidding documentation for granting a concession.
- (3) The Agency shall sign the contract on concession referred to in paragraph 1 hereof, under the same essential conditions as with all other legal entities which have been granted concessions for the provisions of the same or similar telecommunications services or other telecommunications activities.

### **Validity and the extension of a concession**

#### ***Article 28***

- (1) A concession for the provision of telecommunications services shall be issued for a time period that may not exceed 30 years, depending on the type and complexity of the telecommunications services, and the level of a concession in conformity with the regulations referred to in Article 22, paragraph 8 hereof.
- (2) The concession for the provision of telecommunications services, submitted at least 60 days before the expiry of the validity of the concession may, at the request of a concessionaire, be extended without a new invitation for tenders referred to in Article 26, paragraph 1 hereof, provided that the implementation of the concession has complied with the provisions hereof, the regulations passed pursuant thereto and the contract on concession.

### **Transfer of a concession**

#### ***Article 29***

- (1) A concessionaire may transfer a concession to a third legal entity, together with the assets, rights and liabilities necessary for uninterrupted continuation of the provision of telecommunications services or activities, subject to prior approval of the Agency.
- (2) The Agency must give an opinion on application for the approval referred to in paragraph 1 hereof at the latest 30 days from receipt of the application for the transfer.

(3) The concessionaire to whom the concession has been transferred shall enter a new contract on concession which shall contain the same essential provisions as the contract of the concessionaire who transferred the concession.

### **Revocation and termination of the concession**

#### ***Article 30***

- (1) The Agency shall revoke a concession when one of the following occurs:
1. the concession was issued on false information relevant for granting the concession,
  2. the concessionaire failed to commence the operation of the concession within the time specified in the contract on concession or discontinued the operation of the concession for more than 48 hours, except for reasons beyond their control,
  3. the concessionaire continues to provide telecommunications services in contravention of the provisions hereof and the regulations passed pursuant thereto, a decision on granting a concession or a contract on concession after having received a warning regarding the contravention from the Agency,
  4. the concessionaire after having received a reminder in writing from the Agency failed to pay within the time frame stipulated the usage fees.
- (2) An appeal against the decision referred to in paragraph 1 hereof shall not be permitted; proceedings before the administrative court may be instituted.
- (3) The Agency shall issue a decision on the termination of the concession for the provision of telecommunications services when any of the following occurs:
1. expiry of the concession validation,
  2. when the concessionaire has in writing waved the right to the concession,
  3. when the concessionaire has ceased to be a legal entity,
  4. when the concessionaire by a final decision has been forbidden to provide the telecommunications services for which he was authorised,
  5. pursuant to the termination of a contract on concession by mutual consent.
- (4) The Agency shall issue the decision referred to in paragraphs 1 or 3 hereof without delay, and at the latest within 30 days of the occurrence of circumstances referred to in paragraphs 1 or 3 hereof.
- (5) The day when the decision on the revocation of the concession or the decision on the termination of concession becomes final, the contract on concession shall become null and void.

### **Ownership shares in the company of concessionaires**

#### ***Article 31***

- (1) A concessionaire must notify the Agency when a natural person or a legal entity acquires a controlling block of shares or stocks in a company of the concessionaires (over 50% of a share in a limited liability company, or over 25% of voting shares in a joint stock company).
- (2) When the Agency establishes that the acquisition of the controlling block of shares referred to in paragraph 1 hereof has caused a serious distortion of the telecommunications market and a disruption of market competition, the Agency shall order the sale of the respective part of a share or stocks in the company of concessionaires.
- (3) When the provider of public voice services acquires a controlling block of shares referred to in paragraph 1 hereof in the companies providing services referred to in Article 21, paragraph 1, items 2 to 8 hereof, which according to the opinion of the Agency has led to a serious distortion of the telecommunications market and a disruption of market competition, the Agency shall order the sale of a respective part of the share or stocks of the providers of public voice services.



(4) For all disputes arising from the legal transactions referred to in paragraphs 1 and 2 hereof, a commercial court with territorial jurisdiction shall be competent.

#### **Authorities relating to the provision of telecommunications activities**

##### ***Article 32***

(1) The Ministry shall entrust the Agency or another legal entity with the performance of technical matters referred to in Article 77, paragraph 2 hereof.

(2) The Agency shall authorize legal entities to perform the following activities in telecommunications:

1. radio measurements referred to in Article 80, paragraph 4 hereof,
2. radio measurements and testing referred to in Article 81, paragraph 4, item 2 hereof,
3. technical inspection referred to in Article 81, paragraph 6 hereof,
4. calculation and measurements of electromagnetic fields referred to in Article 96, paragraph 3 hereof,
5. conformity assessment of R&TT equipment referred to in Article 93 hereof,
6. conformity assessment of electrical and other engineering equipment referred to in Article 97 hereof,
7. measurements and testing in order to establish the cause of interferences referred to in Article 98, paragraph 2 hereof.

(3) Should the legal entity referred to in paragraphs 1 and 2 hereof fail to perform technical tasks or activities with which it was entrusted, in compliance with the provisions hereof and the regulations passed pursuant thereto, the Agency shall issue a decision to revoke the authority of this legal entity.

(4) The manner and conditions for giving authorities referred to in paragraphs 1 and 2 hereof shall be regulated in regulations to be issued by the Minister.

#### **Charges for concessions, licenses, notifications and authorities for the provision of telecommunications services and activities**

##### ***Article 33***

(1) For a concession to provide telecommunications services referred to in Article 22, paragraphs 1 and 2, for the license referred to in Article 23, paragraph 1, for an notification referred to in Article 24, paragraph 1, and the authorities referred to in Article 32, paragraph 1 hereof, the charges shall be paid in a manner and in the amount specified in the Regulations on payment of the charges for the provision of telecommunications services and activities to be issued by the Minister.

(2) The Regulations referred to in paragraph 1 hereof shall also regulate the manner and the amount to be paid for taking part in a public tender and for the bidding documentation referred to in Article 26, paragraph 1 hereof, for the submission of an application for the license referred to in Article 23, paragraph 2 hereof and an application in writing referred to in Article 24 hereof.

(3) The charges referred to in paragraphs 1 and 2 hereof shall be to the benefit of the State Budget of the Republic of Croatia, pursuant to an invoice issued by the Agency.

## **V. UNIVERSAL TELECOMMUNICATIONS SERVICES**

#### **The scope of universal telecommunications services**

##### ***Article 34***

(1) Universal telecommunications services shall be the minimum set of telecommunications services of specified quality to which all end users in the Republic of Croatia have access at an affordable price, irrespective of their geographical location, and the possibility of special prices for service users with special social needs.

(2) Universal telecommunications services shall include:

1. access to the public voice service via a link to the fixed telecommunications network, enabling the end user to send and to receive intercity (national) and international calls, communications via facsimile and transmission of data by telecommunications, at a transmission speed enabling an efficient access to the Internet, taking into account prevailing technologies used by the majority of users and technological feasibility;
2. access by end users to at least one comprehensive directory of listed subscribers of public voice services, in a form approved by the Agency, which may be in print and/or electronic form, and which must be up-dated on a regular basis, and at least once a year, ensuring the subscribers' right to privacy with regard to the use of their personal information;
3. access of end users to directory enquiry services, including the users of publicly available telephone services;
4. installation of public pay telephones in always accessible places, in conformity with reasonable needs of end users regarding the coverage of the area, number of public pay telephones, their accessibility to the disabled and the quality of service;
5. free of charge emergency service calls and a single European emergency call number for all emergency services from any phone unit, including public pay telephones.

(3) The manner and conditions, and a more detailed description of, and criteria for, the quality of universal telecommunications services shall be stipulated by the Minister in regulations for universal telecommunications services.

(4) The scope of universal telecommunications services may be redefined in the regulations referred to in paragraph 3 hereof, taking account of the extent and relevance of specific telecommunications services and evolving social, commercial and technological conditions.

(5) The Agency shall approve the price of universal telecommunications services referred to in paragraph 1 hereof, and may also establish special allowances for service users with special social needs.

#### **The obligation to provide universal telecommunications services**

##### ***Article 35***

(1) Should it be established that the universal telecommunications service referred to in Article 34 hereof is not being provided in a specified and appropriate way, or if there be a reasonable doubt as to the provision of this service, each operator providing telecommunications services in a given service market determined by the Agency for a specific telecommunications service, or with significant market power shall be required to contribute to the provision of essential telecommunications services.

(2) The Agency shall publish in the Official Gazette the list of relevant service markets where essential telecommunications service is not being provided in an appropriate way, or where there is a reasonable doubt as to the provision of such service, provided that within 30 days from receipt of the Agency's notification regarding the intended publication of such a list, the operator fails to submit to the Agency a statement in writing that it is fully prepared to provide the essential telecommunication service in the way specified.

(3) Should there be several providers of public voice services in the service markets referred to in paragraph 1 hereof, the Agency may by its decision commit one or several providers of public voice services to provide universal telecommunications services, or it may, following a public invitation for tenders for the provision of telecommunications services, select the most favourable supplier for the provision of the services, in a manner and according to a procedure defined in the regulations referred to in Article 34, paragraph 3 hereof, taking account not to disrupt market competition and complying with the obligations of objectivity, transparency and non-discrimination.

**Special obligations of universal  
telecommunications services providers**

**Article 36**

- (1) Providers of universal telecommunications services shall ensure proper and free of interference functioning of their telecommunications system in conformity with the provisions hereof and the regulations passed pursuant thereto.
- (2) Should a provider of universal telecommunications services be compelled, for reasons beyond its control, to discontinue or limit a certain number or type of services temporarily, it should promptly, and if feasible in advance, notify in writing both the Ministry and the Agency thereof, and through the mass media also inform the users of the universal telecommunications services.
- (3) If the situation referred to in paragraph 1 (2? *translator's note*) hereof occurs, the Minister shall, at the proposal of the Agency, by a decision prioritise the users of such telecommunications services.
- (4) The providers of universal telecommunications services in a given market shall, at the request of the Agency, once a year submit data regarding the total revenues earned in this market. If the data required be not submitted to the Agency within the time specified, the Agency may make an estimate of total revenues.

**Cost compensation of telecommunications services providers**

**Article 37**

- (1) Providers of universal telecommunications services, who are compelled to provide these services according to Article 35, paragraph 3 hereof, shall be entitled to the compensation by the Agency for the costs incurred in the provision of these services, provided that these costs impose on the provider of universal telecommunications services an unfair financial burden, which may be proved by demonstrating that long-term additional costs relating to the provision of universal telecommunications services would exceed the revenues.
- (2) A provider of universal telecommunications services who has a share of over 80% in the total revenues earned in the market of these services shall not be entitled to the compensation of costs referred to in paragraph 1 hereof.
- (3) To a claim for the compensation of costs referred to in paragraph 1 hereof a provider of universal telecommunications must attach evidence verifying the grounds for such a claim, and the Agency, or an auditor authorized by the Agency, shall be entitled to inspect the accounts and other documents of the claimant, in virtue whereof the net costs relating to the provision of universal telecommunications services may be calculated, making allowances for the income earned from the provision of this service, including an estimate of indirect profit and other benefits that the provider of universal telecommunications services shall derive from the market.
- (4) Should the Agency, having calculated the net costs relating to provision of the universal telecommunications services, establish that there are grounds for the compensation of costs referred to in paragraph 1 hereof, it shall issue a decision on the compensation of these costs to the provider of universal telecommunications services, i.e. for the costs incurred in the previous year.
- (5) The Agency shall publish annually in the Official Gazette, or in some other appropriate way, the calculation of net costs for the provision of universal telecommunications services and the findings of the business audit relating to the provision of these services of all service providers referred to in paragraph 1 hereof, as well as the amount of obligatory contribution referred to in Article 38, paragraph 2 hereof and the market benefits these providers might achieve, ensuring that business and official secrets are kept confidential in accordance with special regulations.
- (6) The manner and procedure for submitting and resolving claims for the compensation of costs referred to in paragraph 1 hereof, the manner of establishing the extent of the compensation of these costs and the manner and time schedule for their payment shall be stipulated in regulations issued by the Minister.

**Fund for essential telecommunications services****Article 38**

- (1) The funds for the compensation of costs referred to in Article 37, paragraph 1 hereof, shall be provided from the Fund for universal telecommunications services (hereinafter: the Fund).
- (2) The Fund shall be established by the Minister at the proposal of the Agency, when there are several providers of universal telecommunications services, and none of the providers has a share of the total income earned on the market of these services of over 80%.
- (3) The Fund shall be managed by the Fund Committee, composed of five members appointed and discharged by the Agency Council. The Fund Committee shall be responsible for its work to the Agency Council. Members of the Fund Committee shall be entitled to be remunerated for their work on a monthly basis.
- (4) The source of funds for the Fund shall be the contributions of all public voice service providers, whose share in the total annual income made on the market of these services exceeds 5%. The amount of the contribution of each individual public voice service provider must be in the same proportion as the share that their annual income from these services is to the total income of all public voice service providers in the market of these services.
- (5) The Agency shall, after the end of each calendar year, publish by a decision the amount of the contributions referred to in paragraph 4 hereof, for each public voice service provider, relative to the total amount of net costs which will be compensated to the providers of universal telecommunications services for the previous calendar year, according to Article 37, paragraph 4 hereof, respecting the obligations of transparency proportionality, non-discrimination and non-disruption of market competition..
- (6) The manner and procedure for establishing the amount of contributions referred to in paragraph 4 hereof, the manner and time schedule of the payment thereof, and all other issues relating to the management of the Fund, shall be regulated in more detail in the regulations referred to in Article 37, paragraph 6 hereof.

**VI. PROTECTION OF THE RIGHTS OF USERS****Subscribers' relationships****Article 39**

- (1) The rights and obligations arising from the relationship between the provider of public telecommunications services and the subscriber thereof shall be regulated by the general operating conditions referred to in Article 57, paragraph 1 hereof.
- (2) Within the framework of the general operating conditions referred to in paragraph 1 hereof, shall be defined in particular the format and contents of the request form for a connection to a subscriber's terminal equipment, the manner and conditions for setting up, transferring and terminating a subscriber's relationship, the provisions relating to maintenance, testing, transposition, and temporary disconnection of a subscriber's terminal equipment, and such other matters relating to the subscriber's relationship stipulated in the regulations referred to in Article 57, paragraph 7 hereof.
- (3) Providers of public telecommunications services must conclude a contract in writing with a subscriber relating to the connection to their telecommunications network and the provision of public telecommunications services. The contract in writing must contain at least the provisions specified in the special law regulating the protection of consumers.

**Itemized phone billing****Article 40**

- (1) Providers of public telecommunications services must record automatically all the telecommunications services provided for their service users in order to be able to calculate the charges therefor, and must enable the

service users, at their request, access to, and verification of, the data relating to the costs incurred, and must provide to service users a phone bill with a detailed presentation of all telecommunications services provided.

(2) The itemized billing referred to in paragraph 1 hereof must include all the necessary data for users to check and control in a user friendly way the costs of the services provided, and of the use of the fixed telecommunications network, except for data on free of charge calls and emergency calls, and data incompatible with the provisions of special regulations on the protection of personal data.

(3) The itemized billing referred to in paragraph 1 hereof shall be provided, at their request, free of charge to all service users. The Agency may by its decision determine that providers of public telecommunications services include in the detailed phone bill data additional to the ones referred to in paragraph 2 hereof, free of charge.

(4) Service users shall be entitled to receive a non-itemized phone billing.

#### **Blocking of outgoing calls**

##### ***Article 41***

The operator and the provider of public telecommunications services must enable their subscribers, at their request, to block in a user friendly way and free of charge specific types of outgoing calls, i.e. calls to specific types of numbers.

#### **Automatic routing of calls**

##### ***Article 42***

The operator and the provider of public telecommunications services must enable any subscriber to prevent in a simple way, and free of charge, the rerouting of calls from a third party to the subscriber's terminal equipment.

#### **Subscribers' directory**

##### ***Article 43***

(1) Providers of public telecommunications services must regularly up-date the public directory of all subscribers, except those subscribers who expressly forbid their listing of their data in the directory. The public directory must be made available to all service users in an appropriate electronic or printed format, with the printed version being revised at least every two years.

(2) The Agency shall take all necessary measures to institute at least one method for enquiring into the service directory for all public telecommunications networks in the Republic of Croatia, which will be made available to all service users, including the users of public pay phones.

(3) In order to make available the data regarding subscribers' numbers referred to in paragraphs 1 and 2 hereof, providers of public telecommunications services shall satisfy all justified requests made by service users regarding access to the data on their subscribers in an appropriate form, taking into account the obligations of impartiality, non-discrimination and cost orientation.

(4) Subscribers shall be entitled to free of charge prior information on the purpose of their personal data being listed in the public directory of subscribers, both in electronic and printed format, the right to free of charge listing in such a directory, as well as the right to free of charge checking, change, supplement or deletion of personal data in the directory of subscribers. Subscribers may, free of charge, exercise their right not to have their personal data listed in a public directory of subscribers.

### **Complaints and claiming compensation**

#### ***Article 44***

- (1) The user of public telecommunications services may submit a complaint to the service provider about the amount charged to him/her for the provision of telecommunications service, as well as a complaint about the quality of the telecommunications services provided.
- (2) The complaint referred to in paragraph 1 hereof shall be submitted in writing, within 30 days from the date of billing the telecommunications services provided, or from the date of providing telecommunications services the quality of which is objected.
- (3) In the event of a complaint referred to in paragraph 1 hereof, the service provider shall check the amount of debt for the telecommunications service provided, or the quality of the telecommunications service provided, and following such checking confirm the amount of debt or adjust it to the correct amount.
- (4) The subscriber who complained to the service provider regarding the amount charged for telecommunications service provided shall, before the complaint is resolved, pay an average amount of the charges for the three months preceding the period the complaint refers to.
- (5) The subscriber or the user of public telecommunications services who submitted a complaint to the service provider for the quality of the telecommunications service provided may claim compensation from the service provider, should the extent of quality of the telecommunications service be below the quality stipulated by the provisions hereof and the regulations passed pursuant thereto.
- (6) The service provider shall not be obliged to pay compensation for damages referred to in paragraph 5 hereof, if the quality of the service provided is below the quality stipulated due to causes which could not have been anticipated, avoided or eliminated (*force majeure*).
- (7) In the event of dispute regarding the amount of debt referred to in paragraph 3 hereof or regarding the amount claimed for the compensation of damages referred to in paragraph 5 hereof, the subscriber or the user of public telecommunications services may, prior to submitting the claim to the competent court, request that the issue of dispute be resolved before the Council of telecommunications services users.

Provisions of the general regulations on obligation-law relationships shall apply to the issues of claim and time limits of debt referred to in paragraph 5 hereof.

### **The Council of telecommunications services users**

#### ***Article 45***

- (1) The Council of telecommunications services users shall be set up by the Agency as an independent and autonomous body to handle dispute resolutions between providers and users of public telecommunications services.
- (2) Members of the Council of telecommunications services users shall be appointed by the Minister from among representatives of public telecommunications services providers and users, competent bodies of state administration and distinguished experts in the field of telecommunications and consumers' protection, with one third of the Council of telecommunications services users being representatives of associations for the protection of consumers.
- (3) The Council of telecommunications services users shall monitor and analyse the situation in the field of telecommunications services, and in particular the levels of quality and service prices, and in connection therewith it may request from the Ministry, the Agency and providers of public telecommunications services the necessary data and documentation. The Council of telecommunications services users shall communicate its opinion, assessments and conclusions on a regular basis, and at least once a year, to the Ministry, the Agency and other competent bodies, and shall issue proposals for taking measures in accordance with law.

- (4) The number of members of the Council of telecommunications services users, the period for which they are appointed and the procedure for resolving disputes referred to in paragraph 1 hereof shall be specified in regulations to be issued by the Minister.
- (5) The work of the Council of telecommunications services users shall be public. The Council of telecommunications services users shall issue its rules of procedure.
- (6) The professional, administrative and technical matters for the needs of the Council of telecommunications services users ... *(the end of this sentence is missing in the text)*

## VII. MARKET COMPETITION

### Operators or service providers having significant market power

#### *Article 46*

- (1) An operator or a service provider shall be considered to have significant market power in a given market when:
- it is not exposed to market competition, or
  - it enjoys a dominant position in the market *vis à vis* other participants because of its ability to affect market conditions, due to its income share relative to the size of the market, its control over the access to end users, its access to financial sources or its experience in the provision of products and services.
- (2) The Agency may, *ex officio*, or at the request of an operator or service provider establish by a decision that a given operator or service provider has a significant market power in a certain market if its income share in the specific and geographically relevant market exceeds 25% of the total income of this market, taking into account the criteria specified in paragraph 1 hereof.
- (3) The Agency may, *ex officio*, or at the request of an operator or service provider determine by a decision that a given operator or service provider has significant market power in a certain market if its income share in the specific and geographically relevant market is below 25%, and may also determine that the given operator or the service provider does not have significant market power although its share exceeds 25%, taking into account the criteria specified in paragraph 1 hereof.
- (4) In the procedure of passing a decision establishing that an operator or service provider has significant market power in a specific and geographically relevant market, the Agency shall, in conformity with the EU relevant regulations:
1. carry out a procedure to determine specific and geographically relevant markets,
  2. carry out a procedure to analyse specific and geographically relevant markets.
- (5) Once a year in the Official Gazette, or in some other appropriate manner, the Agency shall publish a list of operators and service providers who have significant market power in specific and geographically relevant markets, pursuant to the decisions referred to in paragraphs 2 and 3 hereof.
- (6) The operators referred to in paragraph 1 hereof, in conformity with the obligation of non-discrimination, shall provide services to market participants under comparable circumstances, equal conditions and at the same level at which they provide such services for their own needs or the needs of their associated companies.

### Open network provision

#### *Article 47*

- (1) Operators must ensure access to their networks respecting the obligations of non-discrimination and transparency.
- (2) Operators having significant market power in accordance with the obligation to avoid discrimination shall ensure to market participants the access to their telecommunications network or its unbundled parts under

equivalent circumstances, equivalent conditions and at the same level at which they provide such services for their own needs or the needs of their subsidiaries.

(3) The access provision referred to in paragraph 1 hereof shall be enabled via the links generally available on the market (general network provision), or may be enabled via special links (special network provision), if the user so requires, when technical possibilities so allow and when the applicant agrees to bear the cost of such access.

(4) Operators referred to in paragraph 1 hereof may restrict access to their network in accordance with the provision referred to in Article 53, paragraph 1 hereof.

(5) By a decision the Agency may determine the code of conduct, or prohibit a certain conduct, by the operator referred to in paragraph 2 hereof, should such operator abuse its significant market power.

(6) Prior to passing the decision referred to in paragraph 5 hereof, the Agency shall offer to the operator referred to in paragraph 2 hereof an opportunity to stop the abuses established, within reasonable time, and to notify the Agency thereof.

(7) The abuse referred to in paragraph 6 hereof shall be considered the situation when a service provider having significant market power makes it possible for himself or affiliated companies to access internally offered services or services offered in the market under more favourable conditions (prices, interfaces, time schedules and other) than the conditions in which other competitors may use such services within their own range of services. The existence of such abuse may be challenged if the service provider having significant market power submits to the Agency evidence justifying the use of restrictive conditions, in particular the imposition of limitations on the access to his services.

### **Interfaces and special network access**

#### ***Article 48***

(1) Operators shall offer interfaces in conformity with the obligation of the open network provision.

(2) Should telecommunications services operator fail to comply with the binding standards adopted by the European Union or the Council of Europe, in conformity with the relevant EU Directives, the Agency shall impose such standards and conditions by a decision.

(3) When a special interface or special access to network is required, operators having significant market power shall comply with this requirement when technically feasible, and such compliance will not lead to discrimination, and when the party submitting the request bears the costs.

(4) The request referred to in paragraph 3 hereof may be refused only when there is an alternative access to network, and when it is not among the conditions required for the provision of this access.

(5) Prior to refusing the request referred to in paragraph 3 hereof, the operator required to ensure network provision shall notify the Agency in writing about the reasons for the refusal of each request.

(6) Operators having significant market power shall notify the Agency and communicate in an appropriate manner the types of interfaces available, detailed descriptions thereof, and potential modifications that may occur within the next six months.

(7) The Agency may require the operator referred to in paragraph 1 hereof to offer standard interfaces while enabling the use of special interfaces.

(8) The Agency shall in an appropriate manner publish the requests referred to in paragraph 7 hereof.



**Additional obligations of an operator relating to network provision  
in the event of requests for network access submitted by service providers**

***Article 49***

- (1) The operators shall ensure the provision of network access to service providers respecting obligations of transparency and non-discrimination.
- (2) Network operators having significant market power shall ensure network access to service providers using an appropriate cost orientation which meets the requirement to separate, both structurally and in accounting terms, the network services provided to service providers from the accounting for other services they provide.
- (3) The operators referred to in paragraphs 1 and 2 hereof shall give all the necessary information relating to access to network to the legal entity requiring the access to network.
- (4) At the latest six months prior to implementation of the planned changes, the operators referred to in paragraphs 1 and 2 hereof shall communicate to the legal entity granted access to the network, all planned changes to access to the network.
- (5) The operators referred to in paragraphs 1 and 2 hereof shall, at the request of the Agency, draft the list of standard range of access, which is an integral part of the list of standard range of interconnection referred to in Article 51, paragraph 3 hereof.
- (6) The provisions referred to in Article 51, paragraphs 3 through 22 hereof shall apply to the operator referred to in paragraphs 1 and 2 hereof.

**Minimum requirements for leased telecommunications lines**

***Article 50***

- (1) Operators having significant market power who provide services of leased telecommunications lines, shall communicate the minimum number of telecommunications lines available for leasing, meeting standardized technical specifications in accordance with relevant EU Directives for open network provision for leased telecommunications lines, and shall determine general operating conditions and cost oriented prices.
- (2) Services of leased telecommunications lines must be offered to the market respecting the obligations of non-discrimination, cost orientation and transparency. The service quality of leased telecommunications lines shall be determined within the offer range referred to in paragraph 1 hereof.
- (3) When the Agency establishes that the minimum offer range referred to in paragraph 1 hereof does not comply with the obligations of non-discrimination, transparency, objectivity and cost orientation, that it does not ensure market competition, and that it does not comply with other provisions hereof or the accepted international regulations, it shall require that the operator change its offer.
- (4) The Agency may control the service prices of leased telecommunications lines and impose obligations of cost orientation and structural separation and separate accounting systems, when there is inadequate efficient market competition within the market, when the operator maintains prices at very high level or implements prices in a manner that hinders market competition.
- (5) In the event referred to in paragraph 4 hereof, the Agency shall issue a decision regarding the change of prices for leased telecommunications lines.
- (6) The operators referred to in paragraph 1 hereof, shall if technically feasible, within 60 days from receipt of a request for the lease of telecommunications lines, connect those lines.
- (7) When the operator referred to in paragraph 1 fails to act in accordance with the provision referred to in paragraph 6 hereof, the Agency shall issue a decision ordering the connection of the leased telecommunications lines.

- (8) Technical feasibility referred to in paragraph 6 hereof shall be established by the Agency.

### **Interconnection**

#### ***Article 51***

- (1) Interconnection shall include the following service:
- the access by a new service operator to the network of an operator having significant market power, through pre-programmed network selection or the dialling of selection codes according to the numbering plan
  - the data transmission needed to establish the connection of a specific connection end point to the network operator whose network is interconnected with the network
  - the switching of calls to users of other interconnecting operators or service providers with whom interconnection is performed.
  - providing accounting data in a form satisfactory to the service provider whose network is interconnected with the network.
- (2) The operator of the telecommunications network shall, at their request, make an offer to the operators and service providers for interconnection.
- (3) The operators for interconnection having significant market power on the relevant market shall, at the request of the Agency, draft a list of the standard range of interconnections for their networks and, within the time determined in the request, send it in writing to the Agency.
- (4) After giving its consent the Agency shall communicate in an appropriate way the range of standard offers referred to in paragraph 3 hereof.
- (5) The list of standard offers referred to in paragraph 3 hereof shall contain the detailed data required for interconnection, in order to ensure quality provision of services to different groups of users.
- (6) The operators for interconnections shall notify all the contractual parties to interconnections about any planned modifications to the standard list of offers of interconnection at the latest six months prior to carrying out those modifications.
- (7) The operators referred to in paragraph 2 hereof shall ensure and advance the communications between the users of different telecommunications networks.
- (8) An operator shall not be obliged to provide interconnection if it provides the Agency with evidence showing that the conditions referred to in Article 53, paragraph 1 hereof have been complied with.
- (9) Should the evidence referred to in paragraph 8 hereof be accepted, the Agency shall issue a decision on the impossibility of interconnection within 45 days from receipt of evidence.
- (10) Should the evidence referred to in paragraph 8 hereof be refused, the Agency shall issue a decision on the introduction of additional technical solutions in order to ensure interconnection.
- (11) The operators shall be obliged to negotiate required interconnections. When an agreement on interconnection is not reached within 45 days after receipt of a request for interconnection, the operators involved in negotiations on interconnections may take the case to the Agency.
- (12) In the event referred to in paragraph 11 hereof, the Agency shall within 45 days or by way of an exception, at the latest 75 days, after receipt of a submission, hear the operators and issue a decision on the manner and conditions of interconnection in accordance with a relevant EU Directive; pursuant thereto the modification of the current contract on interconnections shall be carried out or a new contract on interconnection shall be entered into.
- (13) In the event of dispute between operators relating to the interconnection, the operators and the Agency shall act according to the provisions referred to in paragraphs 11 and 12 hereof.

(14) When issuing a decision referred to in paragraph 12 hereof, the Agency shall in particular take account of the following:

- the interest of service users,
- regulatory obligations or restrictions imposed on any party,
- stimulation of innovative market offers and the provision of a broad spectrum of telecommunications services to users at the national level,
- availability of technically and market achievable alternative solutions for the interconnection required,
- ensuring equal agreements on access,
- the need to sustain the integrity of the public telecommunications network and interoperability of services,
- the nature of the request relative to the resources required for the request,
- the public interest,
- the protection of the environment and public health,
- the promotion of market competition,
- the need to sustain universal telecommunications services.

(15) The decision referred to in paragraph 12 hereof shall be sent to all interested parties to the dispute and communicated in an appropriate way.

(16) Prices for interconnection set by operators having significant market power on the service market for leased telecommunications lines, and by the operators of mobile telecommunications networks designated as operators having significant market power on the interconnection market, shall be in accordance with the obligations of transparency and cost orientation, and shall be based on the actual cost of the service provided, including a reasonable rate of return.

(17) The Agency may require the operator for interconnection to substantiate the prices for interconnection and in accordance therewith require the modification of prices for interconnection.

(18) The operators for interconnection having significant market power shall notify the Agency about the contract for interconnection within 8 days of the day of its being entered into, and make the content of the contracts on interconnection available to the Agency for viewing at any time.

(19) Should the Agency deem that the minimal offer of interconnection by the operator having significant market power does not comply with the provisions hereof, the Agency shall issue a decision and indicate to the operator the way the offer is to be modified.

(20) The operators having significant market power shall apply the same conditions and prices under comparable circumstances to interconnected operators providing services of the same type and importance, and provide the means required for interconnection and the data relating to interconnection to other operators under the same conditions, prices and quality of service they provide for their own services or those of their affiliated companies.

(21) When the operators of publicly available telecommunications networks have failed to interconnect in accordance with technical opportunities available, the Agency may, when this is in public interest, within a specific time, impose on the operator the obligation to provide interconnection.

(22) The operators for interconnection must promptly, at the request of the Agency, submit financial and market data relating to interconnection.

### **Structural separation and separate accounting**

#### *Article 52*

(1) A company having significant market power in markets other than telecommunications, or exercising special or exclusive rights in other sectors shall not be allowed to cross-subsidize the costs for their telecommunications services from the sectors where they have special or exclusive rights. When operators having significant market power determine price levels in telecommunications markets, the obligation that they be based on an appropriate cost orientation shall apply.

(2) The operators or service providers having significant market power in a specific or geographically defined market shall not be allowed to cross-subsidize telecommunications services, or cross-subsidize these and other telecommunications services.

(3) The operators or service providers of telecommunications services having significant market power in markets other than telecommunications, or exercising special or exclusive rights in other sectors shall keep separate in an appropriate manner as regards the structure and accounting, the business activities in specific or geographically defined telecommunications markets from those of markets other than telecommunications, in order to ensure transparency of the costs and revenues from telecommunications services and payments between the business sectors where they perform their activities.

(4) An operator or service provider of telecommunications services having significant market power in a specific or geographically defined telecommunications market shall separate in an appropriate manner as regards the structure and accounting the business activities in specific or geographically defined telecommunications markets in order to ensure transparency of the costs and revenues from telecommunications services and payments between the specific or geographically relevant telecommunications markets where they perform their business activities.

(5) The Agency may, *ex officio* or at the request of a market player, institute an investigation, when there are reasonable grounds for believing that the provisions of this Article have been violated, and may request the operator or service provide to submit all the necessary documentation for reviewing.

#### **Restrictions on network access and interconnection**

##### ***Article 53***

In accordance with EU Directives, an operator may restrict network access and interconnection only for the following reasons based on essential requirements:

- the safety of the telecommunications network,
- the maintenance of network integrity,
- the need for interoperability of telecommunications services,
- data protection.

and when such restriction complies with other EU regulations, in accordance with the provisions hereof and the regulations passed thereto.

#### **Regulations on network access and interconnection**

##### ***Article 54***

(1) Detailed conditions for network access, including interconnection, in accordance with the regulations applied in the EU, shall be stipulated by regulations to be issued by the Minister.

(2) The regulations referred to in paragraph 1 hereof shall also regulate the protection of efficient market competition, maintenance of consistent service quality, price regulation, and the minimum range of offer and contracts on interconnection, the manner and conditions relating to the shared use of equipment, the procedure in the event of disputes and the obligations of the operator and the Agency.

#### **Unbundled access to the local loop**

##### ***Article 55***

(1) The operator of a fixed public telephone network, designated by the Agency as having significant market power in the provision of fixed public telephone network services, transmission of data, sound, pictures and other services via telecommunications capacity in a fixed network shall, at the request of other operators, enable unbundled access to their local loop.

- (2) The operators shall negotiate the request for unbundled access to the local loop. If agreement between the operators of telecommunications networks on a request for unbundled access to the local loop is not reached within 45 days of receipt of the request, either party to the interconnection may take the case to the Agency.
- (3) The costs and prices of the local loops and associated facilities shall be non-discriminatory and objective and communicated in an appropriate manner. The prices shall be cost based, i.e. they shall ensure to the provider of the local loop the coverage of actual costs including a reasonable rate of return.
- (4) The operators referred to in paragraph 1 hereof shall ensure the unbundled access to the local loop under the same conditions and prices they provide for their own services or those of their affiliated companies.
- (5) The operators referred to in paragraph 1 hereof shall, at the request of the Agency, in an appropriate manner communicate and up-date on a regular basis the standard offers for unbundled access to local loops and associated facilities. The offers shall contain the terms for the access to the local loop, in particular the actual costs and price of the service excluding the costs of network elements or equipment not required for the usage of a service offered.
- (6) The Agency shall ensure that the price determination for unbundled access to the local loop advances market competition.
- (7) If required in order to ensure non-discrimination, the advance of market competition, economic efficiency and better conditions for service users, the Agency shall be entitled to:
- modify a referred offer for unbundled access to the local loop and associated facilities, including prices,
  - require the operator referred to in paragraph 1 hereof to provide necessary data relating to the offer for an unbundled access to the local loop and associated facilities.
- (8) Should the Agency establish that the market for unbundled access to the local loop is sufficiently developed, the Agency shall, for the operators referred to in paragraph 1 hereof, withdraw the obligation stipulated in this Article relating to the determination of prices according to cost orientation.
- (9) The Agency shall in a transparent way resolve disputes relating to the unbundled access to the local loop, in accordance with Article 51, paragraph 13 hereof.

### **The regulations on unbundled access to the local loop**

#### *Article 56*

- (1) More detailed specifications and terms for unbundled access to the local loop shall be stipulated by regulations to be issued by the Minister in accordance with the regulations applied in the European Union.
- (2) The regulations referred to in paragraph 1 hereof shall also regulate the protection of efficient market competition, maintenance of consistent service quality, price regulation, and the minimum terms and contracts relating to unbundled access to the local loop, the manner and conditions of shared usage of the equipment, procedures for the resolution of disputes and the commitments of the operator and the Agency.

### **General operating conditions**

#### *Article 57*

- (1) Service providers shall develop and communicate in an appropriate manner general operating conditions, containing the description and the conditions of the provision of telecommunications services.
- (2) Service providers having significant market power shall be obliged to obtain prior consent of the Agency for their operating conditions.
- (3) At the latest seven days prior to their publication, service providers shall submit for review to the Agency the general operating conditions referred to in paragraph 1 hereof. .

- (4) The Agency may, prior to, or after the publication of, the general operating conditions referred to in paragraph 1 hereof, order modifications to individual provisions thereof by a decision, when required in order to protect users and market competition, or in the resolution of a certain dispute.
- (5) The Agency may on a temporary basis prohibit provision of individual telecommunications services should it be established that the services are provided according to conditions which are in contravention of the general operating conditions referred to in paragraph 1 hereof, submitted to the Agency for review, and order the rectifying of the non compliance within a reasonable period of time.
- (6) The service provider shall apply the modified general operating conditions to current service users 30 days after publication of the modifications.
- (7) Mandatory content and other component provisions of the general operating conditions referred to in paragraph 1 hereof shall be stipulated in regulations to be issued by the Minister.

### **The prices of services and their regulation**

#### *Article 58*

- (1) Service providers shall communicate the prices of their telecommunications services in an appropriate manner.
- (2) The principles of the price system for the determination of telecommunications services, provided by only one service provider in national and international telecommunications traffic, may be stipulated in the regulations issued by the Minister.
- (3) For service prices provided by a service provider designated by the Agency to have significant market power in the market of public voice service, the market of leased telecommunications lines and the market of mobile telecommunications services, prior consent of the Agency shall be required.
- (4) The Agency shall be obliged to give consent to the prices of services referred to in paragraph 3 hereof within 14 days of receiving a request for approval.
- (5) A service user shall pay the service price for the service provided according to the price list of the service provider.
- (6) In order to achieve economic and promotion aims, service providers may provide some services at lower rates than those in their price lists, in accordance with the principle of non-discrimination, which they shall be obliged to communicate in an appropriate manner.
- (7) Should it be necessary to modify prices of services for the purpose of dispute resolution, the Agency shall in a decision order the respective price modification.
- (8) The service provider shall apply modified prices to current service users 30 days after the publication of the modifications.
- (9) Prices of services shall be aligned within price areas of different telecommunications services, determined by the operator and/or service provider. The operator shall not be allowed to cross-subsidize individual price areas, to give them priority via the price structure.
- (10) Prices for the same services must be the same for the whole territory of the Republic of Croatia or for the territory of concessions of the same level, i.e. on the territory where the service provider provides services.
- (11) The Agency may control service prices when there is no efficient market competition within the market, when the operator sets prohibitive prices or sets prices in such a manner to distort market competition.
- (12) In the event referred to in paragraph 11 hereof, the Agency shall issue a decision on the modification of prices for services.

(13) The obligation to use a cost based approach shall apply to service prices provided by a service provider designated by the Agency as having significant market power in the market of public voice service and the market of leased telecommunications lines.

(14) When the Agency has given prior consent to a service price, prior consent to the service price shall be required later only when an ongoing adjustment of prices is a requirement.

### **Assignment of telecommunications infrastructure**

#### ***Article 59***

(1) When the operator or the service provider assigns telecommunications infrastructure or available capacity to another operator or service provider, and continues thereafter to provide telecommunications services, the costs relating to the assignment shall not be cross-subsidized from activities with special or exclusive rights.

(2) An operator or service provider who assigns telecommunications infrastructure or available capacity in accordance with paragraph 1 hereof, shall notify the Agency thereof before commencing to provide services. Evidence of compliance with the obligation referred to in paragraph 1 hereof shall also be a requirement. The Agency may object to the assignment of telecommunications infrastructure or available capacities within 60 days should it consider that there be cross-subsidizing.

(3) In the event of the objection referred to in paragraph 2 hereof, the telecommunications infrastructure or available capacities assigned for telecommunications services may be used provided that cross-subsidizing has terminated.

(4) The Agency's objection referred to in paragraph 2 hereof shall specify conditions and requirements relating to cross-subsidizing that are to be satisfied retroactively and also a reasonable time period for the conditions and requirements to be complied with.

(5) The Agency shall encourage shared usage of telecommunications infrastructure in order to protect the environment, public health and the needs for proper physical planning.

(6) The parties involved shall enter a joint contract relating to the shared usage of telecommunications infrastructure constructed.

(7) Should the owner of telecommunications infrastructure refuse to enter into the agreement referred to in paragraph 6 hereof, the Agency shall, in accordance with the provisions of this Law, establish within 60 days whether the respective conditions exist and, if this be the case, issue a decision which shall be deemed to constitute the contract. In this decision the conditions and the manner of sharing usage of telecommunications infrastructure and the payment of charges shall be stipulated.

## **VIII. ADDRESSING AND NUMBERING**

### **Addressing plan and Numbering plan**

#### ***Article 60***

(1) Efficient management of addressing and numbering resources in the Republic of Croatia being scarce by their very nature, in order to ensure reasonable, well balanced and efficient usage of numbers and addresses, shall be based on international regulations and treaties binding upon the Republic of Croatia.

(2) The Agency shall be responsible for the management of, the planning of usage and the assignment of the addressing and numbering resources. The Agency shall develop addressing and numbering plans taking the utmost account that the needs of operators, service providers and service users relating to the assignment of addresses and numbers at any time be complied with in a transparent, objective, non-discriminatory and impartial manner.

(3) The addressing plan and numbering plan shall establish the purpose of addresses and numbers to ensure: non-discriminatory availability of addresses and numbers for all operators, service providers and service users;

the necessary space for the introduction of new telecommunications services; and the transfer of numbers and the selection of operator.

(4) The Agency may amend the Addressing plan and the Numbering plan in order to comply with obligations pursuant to international regulations or treaties and to protect the availability of addresses and numbers, taking account of the impact of such amendments, and in particular of the direct or indirect costs of adjustments arising thereof for the operators, service providers and service users.

(5) The Agency shall communicate its intention to amend the Addressing plan and the Numbering plan, in an appropriate manner 60 days prior to the publication of such amendment.

(6) The Agency shall issue and publish the Addressing plan and the Numbering plan, as well as the amendments thereto subject to prior consent of the Ministry.

(7) The plans and the amendments thereto referred to in paragraph 6 hereof, shall be published in the Official Gazette, or in some other appropriate manner.

### **Assignment of addresses and numbers**

#### ***Article 61***

(1) The operators and service providers shall be entitled to apply for a primary assignment of addresses or numbers, including geographical numbers, the numbers for individual telecommunications services and national destination codes, as well as for the addresses of national and international signalling points.

(2) The application referred to in paragraph 1 hereof, shall be submitted to the Agency on a proper form in writing, and the Agency may, subject to available technical capabilities, receive applications electronically.

(3) Pursuant to a decision issued by the Agency relating to the primary assignment of addresses or numbers, the operators and service providers shall be entitled to their use, in accordance with the conditions referred to in Article 62 hereof.

(4) The Agency shall approve the application referred to in paragraph 1 hereof and issue a decision on primary assignment of addresses or numbers when:

1. addresses or numbers in the Addressing plan and the Numbering plan are intended for the purpose laid down in the application submitted,
2. addresses or numbers are available.

(5) The Agency shall refuse the application referred to in paragraph 1 hereof when any of the following occurs:

1. assignment of addresses or numbers required by the application is in contravention of the Addressing plan or the Numbering plan,
2. the applicant referred to in paragraph 1 hereof has deliberately acted in contravention of the provisions relating to the assignment of addresses or numbers,
3. the applicant referred to in paragraph 1 hereof, after receipt of a reminder, failed to pay the fees for the address or number use within the term specified.

(6) The addresses and numbers assigned by the Agency, as primary assignments in accordance with the provisions hereof, may be later assigned by operators and service providers as secondary assignments to their service users and other operators and service providers.

(7) For each available address or number assigned to an operator or service provider by primary assignment, the payment is to the benefit of the State Budget pursuant to the invoice issued by the Agency.

(8) The manner and procedure for address and number assignment, withdrawal of addresses and numbers assigned and transfer of rights for the use of addresses and numbers, appearance and contents of the application form referred to in paragraph 1 hereof, time limits for the resolution of applications referred to in paragraph 1 of



this Article and Article 66, paragraph 2 hereof, and the manner of payment and extent of fees for address or number usage shall be laid down in more detail in regulations to be issued by the Minister.

### **Conditions for the use of address and number**

#### ***Article 62***

Operators and service providers assigned addresses and numbers by primary assignment in accordance with Article 61 hereof, shall comply with the following use requirements:

1. use the assigned addresses and numbers for the provision of telecommunications services only on the territory of the Republic of Croatia,
2. use the assigned addresses and numbers exclusively for the purpose laid down in the application for the assignment of the address or number,
3. use the assigned addresses and numbers in accordance with Addressing plan or Numbering plan,
4. commence the usage of assigned addresses and numbers within six months from receipt of a decision on the assignment of these addresses or numbers,
5. keep record of the addresses and numbers assigned thereto by primary assignment,
6. keep record of the addresses and numbers in use (secondary assignment), and submit it to the Agency at its request,
7. not in any way trade the addresses and number assigned thereto.

### **Application for the assignment of addresses and numbers**

#### ***Article 63***

(1) Application for the assignment of addresses or numbers referred to in Article 61, paragraph 1 hereof shall contain specifically:

1. the name and address of the applicant,
2. the type of telecommunications services for the provision of which the assignment of the addresses or numbers is required,
3. evidence as to the license to provide telecommunications services referred to in 2 hereof,
4. evidence supporting the insufficiency of addresses or numbers assigned earlier to the applicant,
5. the addresses and numbers required.

(2) The Agency may, if necessary, require additional information from the applicant referred to in paragraph 1 hereof considered important for resolving this application.

### **Decision on the assignment of addresses and numbers**

#### ***Article 64***

(1) A decision on the primary assignment of addresses or numbers referred to in Article 61, paragraph 3 hereof shall contain the following data, specifically:

1. the user of the address or number assigned,
2. the address or number assigned,
3. the usage conditions of the address or number assigned.

(2) The Agency may, in a single procedure of resolving a number of cognate applications for assignment of addresses or numbers submitted by one applicant referred to in Article 63 hereof, issue one decision referred to in paragraph 1 hereof, which shall contain all addresses and numbers assigned.

### **Withdrawal of assigned addresses and numbers**

#### ***Article 65***

(1) The Agency may issue a decision requiring full or partial withdrawal of assigned addresses or numbers if it be established:

1. that the use of the addresses and numbers assigned is in contravention of the Addressing plan or the Numbering plan,
  2. that the operator or the service provider to whom the addresses or numbers were assigned has failed to commence the usage of these addresses or numbers within six months from the day of receipt of the decision on the assignment of addresses or numbers,
  3. that the operator or the service provider to whom the addresses or numbers were assigned acts in contravention of the usage provisions laid down in the decision on the assignment of addresses or numbers;
  4. that the stipulated fees for the addresses or numbers use have not been paid within the time specified,
  5. that the validity of the concession granted to the concessionaire of the telecommunications services to whom the addresses or numbers were assigned expired, and that the concession has not been renewed in accordance with the provisions hereof, or the concession has been withdrawn or has been terminated for reasons laid down in this Law,
  6. that the operator or the service provider to whom the addresses or numbers were assigned ceased to exist and its legal successor failed to submit an application to the Agency for assignment of these addresses or numbers in accordance with the provisions hereof,
  7. that the use of the assigned addresses or numbers contravenes the interests of the Republic of Croatia,
  8. that the operator or the service provider to whom the addresses and numbers had been assigned waived in writing the use of the assigned addresses and numbers,
  9. that substantial amendment to the Addressing plan and the Numbering plan are required due to the increased demand for addresses or numbers, international harmonisation of address and number ranges, or to the obstacles to non-discriminatory and open market competition, following a prior opinion obtained by the operator or service provider to whom the amendments refer.
- (2) In the event of withdrawal of the addresses or numbers assigned for reasons laid down in paragraph 1, item 9 hereof, the Agency shall at the same time substitute the withdrawn addresses and numbers by other addresses or numbers.
- (3) The decision referred to in paragraph 1 hereof shall provide reasonable time for the operator or service provider to cease the use of addresses or numbers being withdrawn by this decision.

#### **Transfer of the rights of use of addresses and numbers**

##### ***Article 66***

- (1) The operator or the service provider to whom addresses or numbers have been assigned by primary assignment in accordance with Article 61 hereof, may transfer the rights of use of these addresses or numbers to another operator or service provider subject to prior consent of the Agency.
- (2) A request to obtain consent to transfer the rights of use for addresses or numbers shall be jointly submitted to the Agency by both operators or service providers referred to in paragraph 1 hereof.
- (3) The Agency shall give the consent referred to in paragraph 1 hereof if the operator or the service provider, to which the right of use for addresses or numbers is to be transferred, complies with all conditions for primary assignment and use of these addresses or numbers laid down by the provisions hereof.
- (4) The transfer of rights of use for addresses or numbers used for the provision of those public telecommunications services for which a concession pursuant to this law is a requirement shall be allowed only with the concurrent transfer of the concession in accordance with the provisions in this Law.

#### **Transfer of number and the carrier (operator) selection**

##### ***Article 67***

- (1) Operators and service providers shall enable the users of their services, at their request, to retain the number assigned to them in the telecommunications network, irrespective of a change of operator or service provider.

(2) The obligation to ensure the transfer of number referred to in paragraph 1 hereof, does not apply to retention of the geographical number in the event of a change of the service user's geographical location.

(3) The operators shall enable their service users, at their request, to freely select an operator in a manner such that by the pre-programmed selection of a provider of telecommunications services, the users may make telecommunications connections in the fixed network, without dialling a code (carrier pre-selection), and with the possibility to use instead a short code for the selection of another operator on a per-call basis.

(4) The Agency may, for justified technical reasons, postpone the application of obligations referred to in paragraphs 1 and 3 hereof, provided that this shall not disrupt market competition or harm the interests of users of public telecommunications services.

(5) The time schedule for the introduction of transfer of number and carrier pre-selection of operator in the Republic of Croatia may be stipulated in more detail by regulations to be issued by the Minister.

### **The single European emergency call number**

#### ***Article 68***

(1) Operators and service providers shall introduce the 112 code number as the single European emergency call number on the whole of the territory of the Republic of Croatia.

(2) The unique European emergency call number shall coexist with the current emergency call number.

(3) Operators and service providers shall be responsible for handling calls directed to the single European emergency call number, in conformity with the stipulated structure for current emergency services and within the technical capabilities of their telecommunications systems.

(4) The manner, conditions and time schedule for the introduction of the single European emergency call number may be stipulated in more detail by regulations to be issued by the Minister.

### **The management of the Internet space of the Republic of Croatia**

#### ***Article 69***

(1) A specialized public institution owned by the Republic of Croatia may be authorized to manage the Internet space in the Republic of Croatia and be authorized by a competent international organization to manage a national domain of the Republic of Croatia ("hr" top-level domain name).

(2) The authority referred to in paragraph 1 hereof shall be delegated by the Ministry, at the proposal of the ministry responsible for science and technology, within 30 days of the day the request was submitted.

(3) The organization of the national domain of the Republic of Croatia, interrelationship rights and obligations of the public institution referred to in paragraph 1 hereof and users of sub-domains within the national domain and the rules for managing the national domain shall be stipulated by the regulations to be issued by the Minister subject to prior consent of the minister responsible for science and technology.

## **IX. MANAGEMENT OF THE RADIO FREQUENCY SPECTRUM**

### **Management obligations for the radio frequency spectrum**

#### ***Article 70***

(1) Good management of the radio frequency spectrum, being scarce by its nature, is in the interest of the Republic of Croatia.

(2) The Agency shall manage the radio frequency spectrum and plan the use of geostationary (geosynchronous) and other satellite orbits in accordance with the Statute, the Convention and the ITU Radio regulations, the provisions hereof and the provisions passed pursuant thereto.

(3) In order to manage the radio frequency spectrum in an efficient and economically efficient manner, based on the up-to-date achievements of technological development in the field of telecommunications and information technology, the Agency shall set up a database of the radio frequency spectrum.

#### **The Table for the intended use of the radio frequency spectrum**

##### ***Article 71***

(1) The Table for the intended use of the radio frequency spectrum shall be an integral part of the Regulations on the intended use of the radio frequency spectrum to be issued by the Minister.

(2) The assignment and use of radio frequencies shall be harmonised at national and international level and shall be based on the Table for the intended use of the radio frequency spectrum referred to in paragraph 1 hereof.

(3) The Table for the intended use of the radio frequency spectrum referred to in paragraph 1 hereof shall stipulate the intended use of the radio frequency space for individual radio communications services and the conditions for assignment and use of radio frequencies.

#### **Plan for assignment of radio frequencies**

##### ***Article 72***

(1) The Agency shall issue the Plan for assignment of radio frequencies complying with the Regulations on intended use of the radio frequency spectrum referred to in Article 71, paragraph 1 hereof and publish every six months, in an appropriate way, an up-dated review of radio frequency use on a regional basis.

(2) The Plan for assignment of radio frequencies referred to in paragraph 1 hereof shall in detail regulate the intended use, requirements for the assignment and use of radio frequencies within individual radio communications services laid down under the Regulations on intended use of the radio frequency spectrum referred to in Article 71, paragraph 1 hereof.

#### **Radio communications on a vessel or an aircraft**

##### ***Article 73***

(1) Radio communications on a vessel or an aircraft the purpose of which is the safety of human lives at sea and in the air must be specially protected from any potential source of harmful interference.

(2) The conditions for the assignment and use of radio frequencies for communications services at sea or in the air shall be stipulated by the Regulations to be issued by the Minister.

#### **Amateur radio communications**

##### ***Article 74***

(1) Amateur radio communications are important in particular for the development of technical and radio communications culture, and the advancement of research and development in radio communications, and for communications in emergencies, in wartime or in immediate danger to the independence or unity of the state, and in times of natural disasters.

(2) The conditions for the assignment and use of radio frequencies for the needs of amateur radio communications, the technical conditions for amateur radio equipment, the extent of interference and measures for the protection thereof, radio amateur classes and taking tests according to a harmonized programme shall be stipulated in the regulations to be issued by the Minister.

**Radio communications in a citizens' frequency band (CB)****Article 75**

- (1) For the use of a citizens' frequency band (CB), the Agency shall issue the general license.
- (2) The conditions for the assignment and use of a citizens' radio frequency band (CB) shall be stipulated in the regulations to be issued by the Minister.

**Radio communications in a frequency band intended for professional mobile radio (PMR)****Article 76**

- (1) The Agency shall, when drafting plans for the assignment of radio frequencies intended for professional mobile radio (PMR), take into account the efficient and rational use of restricted frequency bands, and assign radio frequencies prioritising the networks of professional mobile radio with several users.
- (2) The Agency shall issue licences for radio stations within the frequency bands referred to in paragraph 1 hereof.

**Satellite radio communications****Article 77**

- (1) The Ministry shall be responsible for the enforcement of the provisions of treaties, agreements and operating agreements entered into with the international organizations responsible for satellite radio communications (INTELSAT, INMARSAT, EUTELSAT and other).
- (2) For the carrying out of technical matters relating to the enforcement of the provisions of the legislation referred to in paragraph 1 hereof, the Ministry may authorize the Agency or some other legal entity.
- (3) The tasks relating to the international harmonisation of the use of radio frequencies for the needs of satellite radio communications shall be carried out by the Agency.

**Monitoring of the radio frequency spectrum****Article 78**

- (1) In order to harmonise the use of radio frequencies at national and international level, to carry out monitoring and measurements of the radio frequency spectrum, and to take the necessary measures for the protection from interferences and harmful interferences, a system of monitoring and measurement centres and stations has been established within the Agency, with the necessary measurement, computer and communications equipment and vehicles.
- (2) The organization and *modus operandi* of the centre and station system referred to in paragraph 1 hereof shall be established under the general legislation of the Agency.

**The requirements for assignment of radio frequencies****Article 79**

- (1) Radio frequencies shall be assigned:
  1. by issuing license for the use of radio frequencies,
  2. by issuing license for a radio station,
  3. by issuing the general license (authorisation).
- (2) The assignment of radio frequencies shall be based on:
  - (1) the obligation of non-discrimination,

- (2) the Table for intended use of the radio frequency spectrum and the Plan for assignment of radio frequencies.
- (3) The manner, procedure and requirements for the assignment of radio frequencies, and the appearance and content of the application forms, licenses and the general license concerned shall be stipulated in regulations to be issued by the Minister.

### **License for the use of radio frequencies**

#### ***Article 80***

- (1) The license for the use of radio frequencies shall be issued to a legal entity which has been granted a concession for the provision of publicly available telecommunications services in the mobile telecommunications network by using the radio frequency spectrum, in conformity with Article 22 hereof.
- (2) The license for the use of radio frequencies shall be issued concurrently with the granting of a concession referred to in paragraph 1 hereof.
- (3) The concessionaire of publicly available telecommunications services referred to in paragraph 1 hereof shall communicate to the Agency the geographical location and technical specifications for each radio station in their mobile telecommunications network within 8 days of the day the radio station was installed.
- (4) The concessionaire shall at the request of the telecommunications inspector or an authorized Agency staff member, provide respective information on radio measurements carried out in their mobile telecommunications network, as well as the technical data relating to essential stations on this network.

### **License for a radio station**

#### ***Article 81***

- (1) Pursuant to the application submitted, the Agency shall issue a license for each individual radio station, except for radio stations for which license for the use of radio frequencies referred to in Article 80 hereof is a requirement, and the radio stations for which the general license referred to in Article 82 hereof is granted, provided the following requirements have been complied with:
  1. the radio frequency has been laid down in the Plan for assignment of radio frequencies,
  2. the radio frequency is available,
  3. the radio frequency has been harmonised with the use of other radio frequencies.
- (2) The appearance and content of the application form for a radio station and the technical documentation concerned, the attachment of which thereto is mandatory, shall be stipulated in the Regulations referred to in Article 79, paragraph 3 hereof.
- (3) The Agency shall issue license for a radio station within 30 days of receipt of the application referred to in paragraph 1 hereof.
- (4) By way of an exception to the provision referred to in paragraph 3 hereof, the time for issuing a radio station license may be extended to 60 days following receipt of the application when any of the following occurs:
  1. the application for a license for a radio station is incomplete,
  2. the Agency, or a legal entity authorized by the Agency, must carry out some specific radio measurements or other testing in order to establish the technical, geographical and other requirements necessary for the efficient and unhampered use of a radio frequency,
  3. the Agency must carry out the international harmonisation of the use of radio frequencies.
- (5) The Agency shall refuse the application referred to in paragraph 1 hereof if it be established that:
  1. the assignment of a radio frequency which has been applied for, is in contravention of the Plan for assignment of radio frequencies,

2. the assignment of a radio frequency would compromise the efficient use of the radio frequency spectrum or the operation of another telecommunications equipment would be distorted.
- (6) Radio stations referred to in paragraph 1 hereof, prior to their start-up shall be subject to technical inspection to be carried out by the Agency, or a legal entity authorized by the Agency, in conformity with the regulations to be issued by the Minister.
- (7) Only one license shall be issued for all radio stations on a vessel or an aircraft and for all radio stations used by a radio amateur or a radio amateur club.
- (8) For a newly made vessel in the Republic of Croatia, and at the request of a foreign owner, a legal entity competent for the vessel registration shall issue a temporary license for radio stations on the vessel, for a period up to three months, for navigation of the vessel to the country where it shall be registered.

#### **The general license (authorisation)**

##### ***Article 82***

- (1) For a radio station having a respective CEPT exempting it from the requirement for individual license for a radio station, the Agency shall issue a general license in conformity with Article 79, paragraph 3 hereof.
- (2) The Agency shall on a monthly basis publish in an appropriate manner the list of radio stations having a general license, with a detailed list of radio stations subject to notification to the Agency, with all the data relating to the user and the location of radio stations.
- (3) The person responsible for marketing a radio station referred to in paragraph 1 hereof shall when selling this radio station issue a copy of the accompanying general license.

#### **Requirements for the modification of the technical characteristics of the issued licenses**

##### ***Article 83***

- (1) The Agency may by a ruling limit the time or deny the right of use, modify the use requirements or replace the assigned radio frequencies when any of the following occurs:
  1. the purpose of the assigned radio frequency has changed,
  2. there is a sudden public need for the use of radio frequencies which cannot be satisfied in any other way,
  3. interferences which have emerged after the assignment of the radio frequencies due to an increased use of the radio frequency spectrum, may not be dealt with in any other way,
  4. a substantial improvement of the usage efficiency of the radio frequency spectrum is possible due to a further technological advancement,
  5. it is necessary because of a subsequent harmonisation of the radio frequency use at international level or because of international treaties and regulations binding for the Republic of Croatia.
- (2) The restrictions referred to in paragraph 1 hereof shall not relate to radio frequencies used for the needs of the air travel safety service, sea navigation safety service and the safety service on inland waters, railway and road safety services, fire brigades, the monitoring and information service, the hydrometeorological service, and the medical emergency services.
- (3) When radio frequencies assigned by a license are withdrawn for reasons laid down in paragraph 1 hereof, the Agency shall concurrently substitute the withdrawn radio frequencies with other radio frequencies and compensate the actual cost to the user thereof.
- (4) When establishing the restrictions referred to in paragraph 1 hereof, the Agency shall take the utmost account of the impact of such restrictions on users, ensuring in particular that such measures guarantee unobstructed operation of microwave connection in the public interest.

**Validity of a license for a radio station  
and of a license for rights of use for radio frequencies**

***Article 84***

- (1) The validity of a radio station license referred to in Article 81 hereof may not exceed 10 years, it shall be determined according to the purpose of a radio station and shall commence as of the day the radio station license has been issued.
- (2) The validity of a radio station license may be extended in conformity with the regulations referred to in Article 79, paragraph 3 hereof.
- (3) The license for rights of use for radio frequencies referred to in Article 80 hereof shall be issued for the period for which the accompanying concession has been granted.

**The extension of the validity of a radio station license**

***Article 85***

- (1) The Agency may at the request of the radio station user extend the validity of the radio station license referred to in Article 81 hereof.
- (2) The request for the extension of the validity of the radio station license referred to in paragraph 1 hereof shall be filed with the Agency in writing, at the latest 30 days prior to the expiry of the radio station license validity.

**The termination of the validity of a  
radio station license and rights of use for radio frequencies**

***Article 86***

- (1) The Agency shall issue a ruling on the termination of the validity of the radio station license and the rights of use for radio frequencies when any of the following occurs:
1. the expiry of the validity laid down in the license,
  2. when the radio station user fails to pay the fees for the use of radio frequencies within the specified time even after receipt of a reminder,
  3. the use of the radio station is prohibited,
  4. because of the misappropriation or writing off of a radio station due to the expiry of its useful life,
  5. when a user cancels in writing the use of a radio station to the Agency,
  6. when the validity of the user's radio station concession according to which telecommunications services are provided expires, or the concession is revoked.
- (2) When the validity of a radio station license or of rights of use for radio frequencies expires, the owner or the radio station user, respectively, or their inheritor or legal successor must promptly take efficient measures in order to terminate operation of this radio station, and notify the Agency in writing about the measures taken within eight days of the expiry of the validity of the license.

**Identification of radio stations**

***Article 87***

- (1) Radio stations must while broadcasting be identified in conformity with the regulations to be issued by the Minister.
- (2) The identification obligation of radio stations referred to in paragraph 1 hereof shall not relate to radio stations in microwave links, radio stations in publicly available mobile telecommunications network, terrestrial satellite stations, radio stations automatically signalling danger and other radio stations in conformity with the regulations referred to in paragraph 1 hereof.



**Confidentiality of radio messages*****Article 88***

- (1) The radio station owner or user, respectively, shall be prohibited from:
1. learning, using, publishing or passing on the content of a radio message in an unauthorized way not intended for public use,
  2. transferring radio messages marked confidential in a code free form,
  3. transferring false and incorrect signals and statements, in particular when they refer to danger, emergency, safety or identification,
  4. transferring signals and statements not relating to its activity,
  5. receiving signals and statements not directed thereto and not for general reception.
- (2) The infringement of confidentiality of a radio message or information referred to in paragraph 1 hereof shall not be deemed receipt of a message, signal or information in the form of radio interference, when the Agency is promptly notified thereof in writing, in order to be able to establish interferences.

**The use of a radio station in the event of an emergency situation*****Article 89***

- (1) Signals of danger, calls, messages and statements transmitted in the event of danger for a vessel or aircraft, or in the event of natural disasters, or in order to save lives, shall be prioritised for all radio stations.
- (2) In the cases referred to in paragraph 1 hereof it shall be allowed, in addition to radio frequencies assigned and the established requirements for the radio stations, also to use other frequencies and to act in the most appropriate way.
- (3) The owner or user of a radio station who receives signals of danger referred to in paragraph 1 hereof, must stop operation immediately, answer the call and make their radio station available.

**Radio stations of the armed forces of the Republic of Croatia, the police  
and the security services of the Republic of Croatia*****Article 90***

- (1) Without prejudice to the provision laid down in Article 6 hereof, the Armed Forces of the Republic of Croatia, the police and security services of the Republic of Croatia, when constructing and using their own radio communications, must comply with the provisions hereof and the regulations passed pursuant thereto, as well as technical requirements and standards relating to the intended use of the radio frequency spectrum, the type of programme and the power of emission of the electromagnetic field, and efficient measures to prevent and remove harmful interferences, and provision of help in emergencies.
- (2) When a radio station of the Armed Forces of the Republic of Croatia, police and security services of the Republic of Croatia is involved in the radio communications services of other systems, its use must be adjusted to the provisions hereof and the regulations passed pursuant thereto.
- (3) The requirements for setting up, use, maintenance and control of programmes and the supervision of the radio stations of the Armed Forces of the Republic of Croatia, the police and safety services of the Republic of Croatia, the requirements for the establishment and removal of harmful interferences between these and other radio stations, as well as a manner of cooperation with the Agency shall be stipulated by the regulations to be issued by the Minister, subject to prior consent of the minister competent for defence, the minister competent for the police and the head of the security services of the Republic of Croatia.

**Fees for the assignment and use of radio frequencies*****Article 91***

- (1) Fees shall be paid for the assignment and use of radio frequencies in compliance with the regulations on fees for the assignment and use of radio frequencies to be issued by the Minister.
- (2) The fees referred to in paragraph 1 hereof shall be paid to the benefit of the State Budget of the Republic of Croatia, in accordance with bills issued by the Agency.

**X. RADIO EQUIPMENT AND TELECOMMUNICATIONS  
TERMINAL EQUIPMENT****Radio equipment and telecommunications  
terminal equipment*****Article 92***

- (1) Radio equipment and telecommunications terminal equipment (herein after: R&TT equipment) may be imported, marketed, put in operation and used in the Republic of Croatia provided it complies with the requirements established in this Law and the regulations passed pursuant thereto.
- (2) The provision referred to in paragraph 1 hereof also relates to medical equipment and active medical implant devices requiring for their operation radio waves, as well as to the components or integral (complete) equipment in vehicles.
- (3) The provisions of this Law shall not apply to the import, marketing, putting in operation and use of the R&TT equipment used by radio amateurs, except for the radio amateur equipment available on the market, radio and TV sets intended for receipt of radio and TV broadcast, the maritime and aircraft R&TT equipment complying with the special requirements, and the R&TT equipment used exclusively for the needs of the Armed Forces, the police and the competent security services of the Republic of Croatia.
- (4) The import and marketing of R&TT equipment may be carried out by legal entities and natural persons registered for carrying out such activities, subject to prior approval of the Agency.
- (5) For the re-import and marketing of R&TT equipment of the same manufacturer and of the same technical specifications, for which the approval referred to in paragraph 4 hereof was obtained at the first import, new approval shall not be required.
- (6) The Agency shall in an appropriate way communicate the list of R&TT equipment referred to in paragraph 1 hereof for which valid approval has been issued.

**General principles and the essential requirements for R&TT equipment*****Article 93***

- (1) The requirements for marketing, putting in operation and use of R&TT equipment shall be stipulated in detail in regulations to be issued by the Minister.
- (2) The regulations referred to in paragraph 1 hereof shall contain specifically the list of Croatian standards, European harmonised standards and other international standards required for the conformity assessment of R&TT equipment with the essential requirements referred to in paragraph 3 hereof, the manner and procedure for conformity assessment and testing of R&TT equipment, the manner and procedure for authorizing the bodies within the system of the conformity assessment of R&TT equipment, and the marks and manner of marking R&TT equipment.
- (3) The R&TT equipment shall comply with the following essential requirements:

1. requirements for the safety and protection of public health from the impact of electromagnetic fields,
2. requirements of electromagnetic compatibility (EMC),
3. requirements allowing an efficient use of the radio frequency spectrum,
4. other requirements, such as requirements relating to the protection of the telecommunications network from potential damage, the operation via telecommunications network, protection of privacy, access to the disabled or having other such special needs and in the event of an emergency.

### **Marketing of R&TT equipment**

#### ***Article 94***

- (1) The person responsible for marketing R&TT equipment shall, when selling the equipment, provide the user with the instructions for use and technical specifications of the equipment, and a declaration on conformity with the essential requirements referred to in Article 93, paragraph 3 hereof, which shall include a photocopy of the original declaration.
- (2) When R&TT equipment operates within radio frequency space which is not European harmonized space for this R&TT equipment, or is in contravention of the regulations on intended use of the radio frequency spectrum, the manufacturer of the R&TT equipment or the person marketing the equipment, shall notify the Agency thereof at the latest 30 days prior to marketing the equipment.
- (3) The Agency shall, within a reasonable time period, notify the person who has sent the communication referred to in paragraph 2 hereof, about possibilities for putting the R&TT equipment in operation.

### **Putting in operation and the right to connecting to the network**

#### ***Article 95***

- (1) R&TT equipment may be put in operation according to the provisions referred to in Articles 2 and 3 hereof.
- (2) The putting in operation of R&TT equipment, which conforms with the marketing requirements referred to in Articles 92, 93 and 94 hereof, may be restricted in the event when such R&TT equipment causes harmful interferences or is harmful for public health, or fails to provide an efficient use of the radio frequency spectrum.
- (3) Should it be established that R&TT equipment, having a valid declaration on conformity with the essential requirements referred to in Article 93, paragraph 3 hereof, causes serious damage to the telecommunications or radio networks, or harmful interferences, or interferences in the operation of such networks, the operator shall be entitled to deny the connection of such R&TT equipment to their network, disconnect already connected R&TT equipment or withdraw it from operation. The operator shall promptly thereof notify the Agency in writing.
- (4) R&TT equipment, which for some reason does not conform with the essential requirements referred to in Article 93, paragraph 3 hereof, may be displayed and presented in public in the territory of the Republic of Croatia, provided that it be clearly and evidently indicated that the use of such R&TT equipment shall not be allowed in the Republic of Croatia.

### **Restrictions to the electromagnetic field power**

#### ***Article 96***

- (1) The R&TT equipment imported, marketed, put in operation and used in the Republic of Croatia shall not radiate electromagnetic fields the range of which exceeds the allowed values.
- (2) The value ranges of the electromagnetic field referred to in paragraph 1 hereof, the extent of radiation of fixed radio stations, referral regulations and standards relating to the restriction of electromagnetic field power and other requirements with which R&TT equipment must conform as a source of electromagnetic radiation of radio frequencies, shall be regulated by regulations to be issued by the Minister.

- (3) The calculation and measurements of electromagnetic fields radiated by R&TT equipment and radio stations shall be carried out by the Agency or a legal entity authorized by it.

## **XI. ELECTROMAGNETIC COMPATIBILITY (EMC) AND INTERFERENCE PROTECTION**

### **Electromagnetic compatibility (EMC)**

#### ***Article 97***

- (1) Electrical and other technical equipment shall not be allowed to create electromagnetic interferences in the operation of telecommunications, R&TT equipment or radio stations, or the reception of radio and television programmes.
- (2) Electrical and other technical equipment, manufactured, imported, put in operation and used in the Republic of Croatia must conform to the requirements of electromagnetic compatibility (EMC) according to regulations to be issued by the Minister.
- (3) The regulations referred to in paragraph 2 hereof shall specifically contain the list of Croatian standards, and European standards to which electrical and other technical equipment must conform, the manner and procedure for assessment of conformity of such equipment with the requirements relating to electromagnetic compatibility (EMC), the procedure for the approval of foreign certificates on electromagnetic compatibility, the manner and procedures for the authorization of bodies involved in the assessment of conformity, and the marks and manner of marking electrical and other technical equipment.

### **Identification of a source of interference**

#### ***Article 98***

- (1) Identification of a source of interferences and taking measures for the removal thereof shall be carried out by:
1. the operator and service provider for interferences occurring in their telecommunications system,
  2. the owner of a radio network for broadcasting radio and/or television programmes for interferences occurring in their radio network,
  3. the Agency for interferences occurring in radio communications outside systems and network laid down in items 1 and 2 hereof.
- (2) Measurements and testing in order to identify a source of interferences referred to in paragraph 1 hereof and Article 97, paragraph 1 hereof, shall be carried out by the Agency or a legal entity authorized by it, following the request of the operator, service provider or owner or a user of a radio network or radio station, respectively.

### **Removal of interferences**

#### ***Article 99***

- (1) Owners or users of electrical and other technical equipment or radio stations must enable the authorized persons of the legal entities referred to in Article 98 hereof, to inspect or carry out the necessary measurements and testing in order to identify the source of interference, provide the data and make available the documentation necessary for the carrying out of such inspection, measurement or testing.
- (2) Should the inspection referred to in paragraph 1 hereof establish that electrical and other technical equipment or a radio station causes interferences exceeding the level allowed, legal entities referred to in Article 98 hereof shall in writing require the owner or user of such equipment to remove, within a period which may not exceed 30 days, the interferences established and notify the Agency thereof.

(3) Should the owner or user of electrical and other technical equipment or a radio station, which has caused the interferences referred to in paragraph 2 hereof, fail to remove within the specified time the interferences established, the legal person referred to in Article 98 hereof, which identified the source of cause of interference, shall propose to a telecommunications inspector to institute administrative measures as stipulated.

(4) Measurements, testing and removal of interferences caused by the electrical and other technical equipment or a radio station of the Armed Forces of the Republic of Croatia, the police and competent security services of the Republic of Croatia, shall be carried out by their authorized persons at the request and in conjunction with a telecommunications inspector and the authorized Agency staff member.

## **XII. DATA PROTECTION**

### **Safety of telecommunications network**

#### ***Article 100***

(1) The provider of a publicly available telecommunications service must take appropriate technical and organizational measures in order to safeguard security of its telecommunications services, while in conjunction with the operator must take the necessary measures to safeguard the security of the telecommunications network. Having regard to the state of the art and the cost of their implementation, these measures shall ensure a level of security appropriate to the risk presented.

(2) In case of a particular risk of the breach of the security of the telecommunications network, the provider of a publicly available telecommunications service must inform the users concerning such risk and, where the risk lies outside the scope of the measures to be taken by the service provider, of any possible remedies, including an indication of the likely costs involved.

(3) The provider of publicly available telecommunications services shall designate a person who will be responsible for the enforcement of the measures hereof.

### **Confidentiality of the communications**

#### ***Article 101***

(1) In order to ensure the confidentiality of communications in publicly available telecommunications networks and the provision of publicly available telecommunications services and the related traffic data by means of a public telecommunications, listening to, tapping of, storage of or other kinds of interception or surveillance of telecommunications communications and related traffic data shall be prohibited by persons other than service users.

(2) Without prejudice to the provision in paragraph 1 hereof, the prohibition referred to in paragraph 1 hereof shall not apply when there is the express consent of the service user concerned or request pursuant to a special law or to some other regulation.

(3) The provisions referred to in paragraphs 1 and 2 hereof shall not affect any legally authorized recording of communication and the related traffic data when carried out in the course of lawful business practice for the purpose of providing evidence of a commercial transaction or any other business communication.

(4) The use of public telecommunications networks to store information or to gain access to information stored in the telecommunications terminal equipment of a service user shall be only allowed provided that the service users concerned are provided with clear and comprehensive information about the purposes of the processing, and that they offered the right to refuse such processing by the data controller. This shall not prevent any technical data storage or access for the sole purpose of carrying out or facilitating the transmission of telecommunications communication over a public telecommunications network or when strictly necessary in order to provide an information society service explicitly requested by the service user.

**Telecommunications traffic data*****Article 102***

- (1) Telecommunications traffic data relating to service users processed and stored by the operators and service providers of a publicly available telecommunications service, must be erased or made anonymous when it is no longer needed for the purpose of the transmission of a communication, without prejudice to paragraphs 2, 3 and 5 hereof.
- (2) Telecommunications traffic data necessary for the purposes of subscriber billing and interconnection payments may be processed. Such processing is permissible only up to the end of the period during which the bill may lawfully be challenged or payment pursued.
- (3) For the purpose of marketing public telecommunications services or value added services, the provider of a publicly available telecommunications services may process the data referred to in paragraph 1 hereof, to the extent and for the duration necessary for such services or marketing, provided that the service user to whom the data relate has given his/her consent. Service users shall be given the possibility to refuse or withdraw their consent for the processing of telecommunications traffic data at any time.
- (4) Prior to obtaining consent of the service user for the use of data for reasons mentioned in paragraph 3 hereof, the service provider shall inform such service user of the types of telecommunications services traffic data which are being processed and of the duration of such processing for the purposes referred to in paragraph 2 hereof.
- (5) Processing of telecommunications traffic data in accordance with the provisions of this Article shall be restricted to persons acting under the authority of operators and providers of public telecommunications services handling billing, telecommunications traffic management, customer inquiries, fraud detection, marketing or providing a value added service. Such access must be restricted to what is necessary for the purposes of such activities.
- (6) The provisions referred to in paragraphs 1, 2, 3 and 5 hereof shall apply without prejudice to the possibility for the Ministry, the Agency and other competent state bodies, to be informed of traffic data as well as to the obligation of the traffic data collection in the framework of secret surveillance of telecommunications services and national and international telecommunications traffic, in accordance with a special regulation of the Government of the Republic of Croatia and the regulations referred to in Article 17, paragraph 1 hereof.

**Presentation and restriction of calling and connected line identification*****Article 103***

- (1) Where presentation of calling line identification is offered, the provider of a publicly available telecommunications service must offer the calling user the possibility, using a simple means and free of charge, of preventing the presentation of the calling line identification on a per-call basis.
- (2) Where presentation of calling line identification is offered, the provider of a publicly available telecommunications service must offer the called user the possibility, using a simple means and free of charge for reasonable use of this function, of preventing the presentation of the calling line identification of incoming calls.
- (3) Where presentation of calling line identification is offered and where the calling line identification is presented prior to the call being established, the provider of a publicly available telecommunications service must offer the called subscriber the possibility, using a simple means, of rejecting incoming calls where the presentation of the calling line identification has been prevented by the calling user or subscriber.
- (4) Where presentation of connected line identification is offered, the provider of public telecommunications services must offer the called subscriber the possibility, using a simple means and free of charge, of preventing the presentation of the connected line identification to the calling user.

**Location data other than telecommunication traffic data*****Article 104***

(1) Where location data other than traffic data, relating to users or subscribers of public telecommunications network or publicly available telecommunications services, can be processed, such data may only be processed when they are made anonymous or with the consent given of the users or subscribers to the extent and for the duration necessary for a value added service. The service provider must inform the users or subscribers, prior to obtaining their consent, of the type of location data other than telecommunications traffic data, which will be processed, of the purposes and duration of the processing and whether the data will be transmitted to a third party for the purpose of providing a value added service. Users or subscribers shall be given the possibility to withdraw their consent for the processing of location data other than telecommunications traffic data at any time.

(2) Where consent of the users or subscribers has been obtained for the processing of location data, other than telecommunications traffic data, the user or subscriber must continue to have the possibility, using a simple means and free of charge, of temporarily refusing the processing of such data for each connection to the telecommunications network or for each transmission of a telecommunications communication.

(3) Processing of location data other than telecommunications traffic data in accordance with the provisions referred to in paragraphs 1 and 2 hereof must be restricted to persons acting under the authority of the operator and service provider of public value added telecommunications services, or a third party providing value added services, and must be restricted to what is necessary for the purposes of providing the value added service.

**Exceptions in the presentation of the calling line*****Article 105***

The operator and service provider of publicly available telecommunications services may override:

1. the elimination of the presentation of calling line identification, on a temporary basis, upon a subscriber requesting the tracing of malicious or nuisance calls. In this case in accordance with a special law the data containing the identification of the calling subscriber will be stored and be made available by the operator or the provider of public telecommunications services.
2. the elimination of the presentation of calling line identification and the temporary denial or absence of consent of a user or subscriber for the processing of location data for the emergency calls recognized as such by competent state bodies and emergency service in their requests in writing. The Ministry shall publish the list of the relevant state bodies and emergency services and their respective numbers in the Official Gazette.

**Directory of subscribers*****Article 106***

(1) Subscribers must be informed free of charge and before they are included in the directory, about the purposes of a printed or electronic directory of subscribers available to the public or obtainable through directory inquiry services, and of any further usage possibilities based on search functions embedded in electronic versions of the directory.

(2) Subscribers shall be given the opportunity to determine whether their personal data shall be included in the public directory, and if this be the case, which, to the extent that such data are relevant for the purpose of the directory as defined by the provider of the directory, as well as to verify, correct or withdraw such data.

(3) For any purpose of a public directory other than the search of contact details of persons on the basis of their name, and where necessary, a minimum of other identifiers, the directory service provider must obtain additional consent from the subscriber.

(4) The provisions referred to in paragraphs 1 and 2 hereof shall apply to subscribers who are natural persons. Legal entities shall not be allowed the option of not having their personal data being included in a public directory, which are necessary for basic identification and communication.

(5) The provisions referred to in paragraphs 1, 2, 3 and 4 hereof shall not apply to subscribers' directories developed and marketed in a printed or electronic format prior to the entry into force of this Law.

(6) Where the personal data of subscribers of public voice services in fixed and mobile telecommunications networks have been included in a public telephone directory of subscribers prior to the entry into force of this Law, the personal data of such subscribers may continue to be included in this public directory in its printed or electronic version, including a function of a reverse order search, unless subscribers require otherwise, after the provision of full information on the purpose and any usage possibilities in accordance with the provisions referred to in paragraphs 1, 2, 3 and 4 hereof.

### **Unsolicited communications**

#### ***Article 107***

(1) The use of calling systems with and without human intervention, facsimile machines (fax), or electronic mail for the purpose of direct marketing shall be subject to prior consent of the service user.

(2) The use of technical systems in requesting the consent referred to in paragraph 1 hereof shall be considered a direct marketing and shall not be allowed.

(3) Where a natural person or a legal entity, a businessman, obtains from its customers their electronic contact details for electronic mail, in the context of the sale of a product or a service, it may use these electronic contact details for direct marketing only of their own or similar products, provided that such customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected and on the occasion of each message in case the customer has not initially refused such use.

(4) The sending of electronic mail for purposes of direct marketing disguising or concealing the identity of the sender on whose behalf the communications is made, or without a valid address to which the recipient may send a request that such communications cease shall be prohibited.

(5) The provisions referred to in paragraphs 1 and 3 hereof shall not apply to non-automated calls to legal entities for the purpose of direct marketing.

### **XIII. SUPERVISORY INSPECTION AND CONTROL**

#### **Carrying out of the supervisory inspection and control**

#### ***Article 108***

(1) The Ministry shall carry out supervisory inspection of the enforcement of the provisions hereof and the regulations passed pursuant thereto, and of treaties and agreements in the field of telecommunications binding on the Republic of Croatia.

(2) The supervisory inspection referred to in paragraph 1 hereof shall be carried out by telecommunications inspectors.

(3) Inspection of the enforcement of the provisions hereof and the regulations passed pursuant thereto, regulating the inspection of the radio frequency spectrum, the provision of other telecommunications services referred to in Article 21, paragraph 2 hereof, and measuring and testing in order to establish a source of interferences referred to in Articles 97 and 98 hereof shall be carried out by the Agency, by the authorized Agency staff members.

(4) In addition to the inspection referred to in paragraph 3 hereof, the authorized staff member of the Agency, at the request of the telecommunications inspector shall in conjunction with the telecommunications inspector carry out any other task of the supervisory inspection in accordance with the request.



(5) The inspection of the enforcement of the provisions hereof, regulating possession of the license for a radio station referred to in Article 81 hereof, and the taking of measures relating to such inspection, shall be carried out by the ministry responsible for the police matters. An authorized person from the ministry responsible for the police matters shall take the necessary measures for the efficient obstruction of operation of any radio station lacking a license as referred to in Article 81 hereof and shall promptly notify the telecommunications inspector thereof.

(6) The inspection referred to in paragraph 5 hereof shall be carried out by the ministry responsible for the police *ex officio* or at the proposal of the telecommunications inspector.

(7) The operator, service provider and owner of the telecommunications infrastructure, and the owner or user of telecommunications equipment, R&TT equipment or a radio station shall make available to the telecommunications inspector, at their request, a the telecommunications equipment, R&TT equipment or radio station for review, and promptly give or submit the necessary data and documentation relating to the supervisory inspection.

**Authorities of a telecommunications inspector and  
the controlling authority of the Agency**

**Article 109**

(1) When carrying out the supervisory inspection referred to in Article 108, paragraph 1 hereof the telecommunications inspector shall be authorized to:

1. forbid the import, sale, leasing or use of telecommunications equipment, R&TT equipment and radio stations which are incorporated into or connected to public communications, when such equipment and radio stations do not conform to the requirements established by this Law and the regulations passed pursuant thereto;
2. forbid the import, sale, leasing or use of the electrical and other technical equipment when such equipment does not conform to the requirements established in this Law and the regulations passed pursuant thereto relating to electromagnetic compatibility;
3. forbid the import of radio stations and R&TT equipment for which a valid license has not been obtained and no proper payment made for the assignment and use of radio frequencies within the time specified after receipt of a reminder, and define measures in order to terminate the operation of such a radio station or R&TT equipment;
4. forbid the use of a radio station and R&TT equipment for which non compliance with technical requirements and usage requirements has repeatedly been established, and define measures in order to terminate the operation of such a radio station or R&TT equipment;
5. forbid the provision of telecommunications services or activities when no valid concession or license has been obtained, nor a valid contract entered into, or when no valid notification has been submitted to the Agency, nor valid authorization given, nor stipulated fees paid for a concession, license, application or authorization, or when telecommunications services or activities are carried out in contravention of this Law and the regulations passed pursuant thereto, and define measures to terminate further provision of such services and the carrying out of their activities;
6. forbid the carrying out of works, the construction of new buildings and installation of technical equipment within the protected zone or radio corridor of radio stations;
7. cancel on a temporary basis the carrying out of works close to telecommunications infrastructure or equipment, radio stations or links, which might damage or interfere with the operation of such infrastructure, equipment, radio stations, or telecommunications links, when consent of the owner of the infrastructure, equipment, radio station or telecommunications link in question has not been previously obtained, until such consent is obtained;
8. forbid on a temporary basis the operation of a radio station and R&TT equipment causing interference, until such interference is removed;
9. order the removal of deficiencies of telecommunications equipment, R&TT equipment and radio stations creating electromagnetic interference in the operation of telecommunications or radio communications or the reception of radio or television programmes, and in the event of the establishment of harmful interference forbid on a temporary basis the use of such equipment or radio stations, until the harmful interference be removed;
10. order the rectifying of deficiencies in the event of non compliance with this Law and the regulations passed pursuant thereto during the installation or use of telecommunications

infrastructure or equipment, R&TT equipment or radio stations or the provision of telecommunications services or some other activities;

11. in accordance with the measures laid down in items 1 through 5 of this paragraph, telecommunications equipment, R&TT equipment and a radio station equipment may on a temporary basis be fully, or any part, sealed or seized and a statement thereof issued in writing.
- (2) The telecommunications inspector shall be authorized to carry out or cause to be carried out the necessary measurements and testing on the telecommunications equipment, R&TT equipment and radio stations, and may for the purposes of supervisory inspection use respective technical means and equipment of the operator, service provider, the owner or user of the telecommunications equipment, R&TT equipment or radio stations.
- (3) The authorized staff member of the Agency shall promptly notify in writing the telecommunications inspector about the findings of the inspection and the facts established in the course of the inspection, for which he/she is authorized according to the provisions hereof.
- (4) When the authorized staff member of the Agency following the inspection establishes that the telecommunications equipment, R&TT equipment or radio station causes interference, or that a radio station or other radio equipment operates on radio frequencies for which the owner or user of the radio station or equipment concerned has failed to obtain a valid license, he/she shall exercise the authorities referred to in paragraph 1, item 11, and paragraph 2 hereof, with the obligation to promptly notify the telecommunications inspector about the measures taken in writing in order to file a complaint for the breach committed.
- (5) The telecommunications inspector and the authorized Agency staff member shall keep records concerning the supervisory inspection or control carried out and they shall be provided with valid identity cards.
- (6) The content and format of the identity card referred to in paragraph 5 hereof and the seal for the sealing referred to in paragraph 1, item 11 hereof, and the content and manner of keeping records referred to in paragraph 5 hereof shall be regulated by regulations to be issued by the Minister.

#### **Enforcement of a ruling issued by a telecommunications inspector**

##### ***Article 110***

- (1) No appeal against the ruling of the telecommunications inspector shall be allowed; only administrative action may be taken.
- (2) In the event of no action following the ruling issued by the telecommunications inspector, the telecommunications inspector may declare to a natural person or a responsible person in the legal entity to which the ruling refers an administrative measure expressed in money to the amount of 20 times the average monthly income in the Republic of Croatia during the previous quarter.
- (3) The administrative measure referred to in paragraph 2 hereof shall be enforced by the bodies competent for the collection of fines for infringements and the amount shall be to the benefit of the State Budget of the Republic of Croatia.

#### **XIV. PENALTY CLAUSES**

##### ***Article 111***

##### ***Article 112***

## **XV. TRANSITIONAL AND FINAL PROVISIONS**

### **General transitional provisions**

#### ***Article 113***

(1) A legal entity or a natural person who on the day this Law comes into force is providing telecommunications services and activities in telecommunications pursuant to a concession, notification or authorisation according to the provisions which were in force up to the day this Law comes into force, shall continue to provide such services and activities according to the provisions of this Law up until the expiry of the concession or authorisation or the notification of the service.

(2) HT – Croatian telecommunications d.d. shall not later than 1 January 2005 ensure that other operators and service providers have access to their unbundled local loop. Until this date HT – Croatian telecommunications d.d. shall provide the service of the number portability and carrier pre-selection to other operators and service providers.

(3) HT – Croatian Telecommunications d.d. shall not later than 1 January 2004 commence the necessary technical preparations in order to conform to the obligations referred to in paragraph 2 hereof, and not later than 30 June 2004 submit to the Agency, in compliance with its formerly presented request, all the data relating to the completion of technical preparations.

(4) HT – Croatian Telecommunications d.d. shall within three months of the day this Law comes into force conform their business operations to the provisions laid down in Article 52 hereof regulating the structural separation and accounting separation.

(5) The contract on concession for the provision of telecommunications services in a fixed network referred to in Article 98, paragraph 5 of the Law on Communications (Official Gazette, No. 76/99, 128/99, 68/01 and 109/01), which the Government of the Republic of Croatia entered into with the company HT – Croatian Telecommunications d.d., shall be harmonised with the provisions hereof within three months from the day this Law comes into force.

(6) The authorisation or license for a radio station, issued according to the provisions in force before this Law has come into force, shall be valid until their expiry, and a radio station may be used until the expiry of the term specified, and under conditions specified in the authorisation or license for a radio station according to the provisions hereof. The Agency shall harmonise the conditions laid down in the authorisations and licenses issued with the provisions hereof within six months of the day this Law comes into force.

(7) The operators and service providers, who provide telecommunications services on the day this Law comes into force, shall comply with the obligation referred to in Article 17, paragraph 6 hereof within a year of the day this Law comes into force.

(8) Administrative and court actions commenced before this Law comes into force, shall be completed according to the provisions in force to the day this Law comes into force, and according to the provisions hereof only if this be more favourable for the parties to dispute.

### **Transitional provisions relating to concessions for radio and television**

#### ***Article 114***

(1) Before the Council for Electronic Media commences to operate in accordance with the provisions of a special law regulating the field of the electronic media, the matters in its competence shall be carried out by the Council for radio and television established according to the provisions of the Law on Communications (Official Gazette, No. 76/99, 128/99, 68/01 and 109/01).

(2) Before the commencement of work of the technical and administrative services of the Council for Electronic Media, the matters in its competence shall be carried out by the Agency.

(3) The procedures for issuing concessions for the activities in the area of radio and television which have commenced before the day this Law comes into force, shall be completed according to the provisions in force before the day this Law comes into force (Alternative: according to the provisions of a special Law regulating the area of the electronic media).

(4) A concessionaire of radio and television who on the day this Law comes into force carries out the activities of radio and television pursuant to a concession and a contract on concession according to the provisions in force up to the day this Law comes into force, shall continue to carry out these activities in accordance with the provisions of a special law regulating the area of the electronic media until the validity of the concession expires.

### **Transitional provisions relating to the Agency**

#### ***Article 115***

(1) The Government of the Republic of Croatia shall within 15 days of the day this Law comes into force propose a motion to the Croatian Parliament for the appointment of the Agency Council members, according to Article 9, paragraph 1 hereof.

(2) The Agency Council shall within 30 days of the above appointments issue the Agency Statute and other general legislation, and within a further 10 days announce vacancies for the position of the Agency manager.

(3) The Government of the Republic of Croatia shall within 10 days of the day this Law comes into force appoint a temporary president of the Agency Council and a temporary manager of the Agency, who shall, before the members of the Agency Council and the manager of the Agency are appointed, execute the matters from their competences.

(4) As of the day of the appointment of a temporary president of the Agency Council or a temporary manager of the Agency, the term of office of the members of the Council for Telecommunications, of the members of the Croatian Institute for Telecommunications, and the director and deputy director of the Croatian Institute for Telecommunications shall cease.

(5) As of the day of the appointment of members of the Agency Council and the manager of the Agency the term of office of the persons referred to in paragraph 3 hereof shall cease.

(6) The staff of technical and administrative services of the Council for Telecommunications and the staff of the Croatian Institute for Telecommunications shall continue to execute their duties in the positions they hold on the day this Law comes into force and retain the acquired job positions until they enter into employment contracts according to general legislation referred to in paragraph 2 hereof.

(7) Without prejudice to the provision referred to in paragraph 6 hereof, the staff members of the Croatian Institute for Telecommunications, who at the time when this Law comes into force hold the position of telecommunications inspectors shall be assumed by the Ministry.

(8) The Agency shall be a legal successor to the Council for Telecommunications and the Croatian Institute for Telecommunications, and shall take over the movables and immovables, the records and other documentation, capital equipment, financial means, the rights and obligations of the Council for Telecommunications and the Croatian Institute for Telecommunications.

(9) Following the appointment of the members of the Agency Council and the adoption of the Agency Statute, the president of the Agency Council shall apply for the deletion of the Council for Telecommunications and the Croatian Institute for Telecommunications from the register of companies, and apply for the registration of the Agency in the register of companies.

(10) Before the Agency is recorded in the register of companies and the commencement of its operation, the tasks within its scope, in conformity with the provisions hereof, shall be carried out by the Council for Telecommunications and the Croatian Institute for Telecommunications.

**Subordinate legislation*****Article 116***

- (1) The Minister shall issue the regulations that he/she is authorized to issue according to the provisions hereof at the latest a year from the day of its entry into force.
- (2) Before the entry into force of the provisions referred to in paragraph 1 hereof the subordinate legislation regulating the matters concerned, provided it is not in contravention of the provisions hereof, shall apply.

**Final provisions*****Article 117***

- (1) As of the day this Law comes into force the Law on Communications (Official Gazette, Nos. 76/99, 128/99, 68/01 and 109/01) shall become null and void.
- (2) This Law shall enter into force on the eighth day of its publication in the Official Gazette.