

***REPUBLIC OF MONTENEGRO
LAW
ON TELECOMMUNICATIONS***

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I GENERAL PROVISIONS

Article 1

This Law regulates: performing telecommunications activities; establishment of a Agency for telecommunications; it regulates conditions for construction, maintenance, safety, use and supervision of telecommunications networks, buildings and equipment; it regulates relations between the providers and the users of telecommunications services; regulates provision of universal services, issuing of licenses, management, use and control of radio frequency spectrum, and other issues related to telecommunications.

Article 2

The aim of this Law is:

1. to create the conditions for satisfying needs for telecommunications services;
2. to protect the interests of users (including privacy of data about users);
3. to provide for and to encourage competition in the area of telecommunications (services, networks and equipment);
4. to create conditions for providing universal service in the Republic of Montenegro (hereinafter referred to as the Republic) at acceptable prices and taking into account advances in technology, market development and changes in user demands;
5. to encourage economy and efficiency in the area of telecommunications;
6. to regulate the quality, applying of standards, non-contravention and security of telecommunications services;
7. to enable open access to telecommunications networks, services and users;
8. to provide efficient use of the available radio-frequency spectrum; and
9. to encourage performing of telecommunications activities in compliance with domicile and international standards and regulations.

Article 3

As used in this Law the particular expressions shall have following meaning:

1. Telecommunications is every emission, transfer or receipt of any kind of messages in form of signals, (data, spoken, written, in picture and in sound) by using the wire, radio, optical or other electromagnetic systems or devices.
2. Telecommunications service is the service that partly or completely consists of transmission and routing of signals in telecommunications networks.
3. Public telecommunications service is publicly available telecommunications service.
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4. Telecommunications network is a group of transmission systems, switching and other telecommunications equipment, which facilitates transmission and routing of telecommunications signals and which is used for provision of telecommunications services.
5. Public telecommunications network is a telecommunications network which is intended and available for providing public telecommunications services.
6. A telecommunications operator is a legal or physical entity who has been granted a license to build, maintain and exploit telecommunications network.
7. Public telecommunications operator is a legal or physical entity who has been granted a

license to build, maintain and exploit public telecommunications network and provide public telecommunications services.

8. Provider of telecommunications services is a legal or physical entity that provides telecommunications service to the users, using telecommunications network.

9. Provider of public telecommunications services is a legal or physical entity that provides telecommunications services to the users using public telecommunications network.

10. Public fixed telecommunications network is a telecommunications network which is used, in whole or in part, for provision of public telecommunications service between stationary terminal points, including telecommunications systems and equipment intended for connection with other public telecommunications networks in the Republic and abroad.

11. Public fixed telephone system includes provision of service of sending and receiving local, national and international voice or data messages to users at fixed locations, using the public fixed telecommunications network.

12. Mobile public telecommunications network is a telecommunications network for communication by radio between terminal points which are not at fixed locations.

13. Public mobile telecommunications service is a telecommunications service realized at specified radio-frequencies, using a mobile public telecommunications network.

14. Mobile maritime telecommunications network is a part of public telecommunications network intended for provision of public telecommunications service at the sea.

15. Leased lines are non-commuted communication link between terminal points.

16. Radio-diffuse network is a telecommunications network that is used for broadcasting and distribution of radio and television signals intended for direct public receipt in the open air.

17. Cable-distribution network is a telecommunications network that is used for distribution of radio and television programmes and other telecommunications signals.

18. Terminal points are places of physical or logic connections of telecommunications equipment or systems to telecommunications network.

19. Terminal equipment is equipment which is directly or indirectly connected to a terminal point in the aim of sending, processing or receiving telecommunications signals.

20. Telecommunications equipment includes devices, plants, apparatus, terminal equipment, radio stations and other technical devices including software, that are used in telecommunications.

21. Telecommunications object is a civil-engineering building where telecommunications equipment is situated.

22. Radio station is one or more transmitters or receivers, or a combination of one or more transmitters or receivers, with one or more antenna and other devices, placed at one location and necessary for performing radio-communication services, with the exception of a receiver for direct reception of broadcast signals.

23. Radio communication include transfer of telecommunications signals by electromagnetic waves from the radio-frequency spectrum which spread freely through the open air.

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24. Radio frequency spectrum includes electro-magnetic waves frequencies of which are in the range of above 9KHz and below 3,000 GHz and exhibiting free propagation through the open air.

25. Radio frequency range is a part of the radio frequency spectrum between two determined border frequencies.

26. Radio corridor is a part of the open air where electro-magnetic waves are spreading from the radio-frequency spectrum at the line of direct visibility between terminal points.

27. Public satellite services are public telecommunications services realized by satellite radio equipment.

28. VSAT (Very Small Aperture Terminal) services are one-direction and/or two-directions telecommunications services realized by electromagnetic waves and small earth satellite antennas (of the diameter up to 2 m).
29. Paging service is the service that provides user with the facility, by means of specific terminal equipment which is not installed on a fixed location, through electro-magnetic waves on radio frequencies, to receive spoken or visual messages initiated through terminal equipment in public telecommunications network.
30. Interconnection is physical or logical connection of telecommunications networks which provides users of one networks with possibility to communicate with users of other networks or to have access to services provided by another provider of services.
31. Numeration is allocation of numbers, which are parts of total calling codes that make possible to establish telecommunications networks in certain areas or to perform certain services.
32. Limited resources are: radio spectrum, national plan of numeration and position in geostationary orbit.
33. Users are individuals, including consumers, or organizations, that are using or request using public telecommunications services of public telecommunications operators or public telecommunications service providers.
34. Electromagnetic compatibility (EMC) is facility of devices, part of equipment or system to function without broadcasting forbidden electromagnetic interference into environment.
35. Universal service is a set of telecommunications services of specified quality and range, which should be made available to users in the Republic, regardless of their geographic location and at reasonable and non-discriminatory rates.
36. Public pay phone is a telephone made available to the public. For using the available services one pays by coins and/or credit/debit cards or other cards.
37. Public pay phone service is a telephone service provided through pay phone booths available to the public with unrestricted 24 hour access, and provided by a public telecommunications operator or public telecommunications service provider.
38. Public data transmission network is a public telecommunications network that allows transmission and routing of data signals between two or more computers, between two or more terminal data or between a computer and terminal data.
39. Public data transmission service is a public telecommunications service provided to users through a public data transmission network. Public data transmission service does not include voice transmission (telephone service), telegraphy, telex service or service of leasing lines.
40. Private telecommunications network is a telecommunications network built, maintained and exploited by an operator for his own needs and/or the needs of a limited number of users (i.e. network which is not intended for provision of telecommunications services to third parties, but which may be connected to the public telecommunications network).
41. Call-back service is a telecommunications services where, at the request of the user from the Republic, a 'back-call' from abroad is realized to the telecommunications number of the user in the Republic.
42. Significant market position is the position of public telecommunications operator or public telecommunications service provider who has 25% or more of market share in the market of the Republic in any of its activities, in relation to the number of users of certain services

II COMPETENCIES

Article 4

The bodies that exercise competencies from his Law are: the Government of Montenegro (hereinafter referred to as: the Government), the Ministry responsible for telecommunications activities (hereinafter referred to as: the Ministry), and Agency for telecommunications.

Article 5

In the area of telecommunications, the Government:

1. determines development plans in the area of telecommunications
2. passes the plan of purposes and the plan of allocation of radio frequencies;
3. determines the conditions and method of utilization of all telecommunications networks in case of exceptional circumstances.

Development plans in the area of telecommunications determine strategy, principles and phases of development of telecommunications sector and contain the plan for liberalization of certain services.

The Government considers realization of the development plans in the area of telecommunications at least once a year and estimates the needs for its changing in order to be put in accordance with this Law and other relevant legal and technical international standards and regulations.

Bases of development plans in the area of telecommunications are:

1. realization of universal service and its financing.
2. the extent to which the regulated service tariffs should reflect the cost of exploiting the network and providing the service; and
3. the principles and commitments of the EU, International Telecommunications Union (ITU) and the WTO and other international conventions and obligations of the Republic.

Article 6

In the area of telecommunications the Ministry:

1. proposes to the Government the development plans in the area of telecommunications and takes care of their realization;
2. determines universal services to be provided by the operator of the public fixed telecommunications network;
3. passes regulations on the basis of this Law;
4. coordinates and encourages researches and development of telecommunications;
5. participates in operation of international organizations in the area of telecommunications;
6. determines amounts of fees for registration and licenses in accordance with this Law,
7. proposes the amount of fee for radio-frequencies;
8. in case of exceptional circumstances, exercises the decrees of the Government regarding operation of telecommunications networks
9. performs other activities, according to this Law.

Article 7

Agency for telecommunications is founded by the Government (hereinafter referred to as the 'Agency'). It is founded as an independent regulatory body, which is functionally independent of all the subjects which exploit telecommunications networks and provide equipment and services.

Article 8

The Agency is of the nature of legal entity.

The Agency has the Statute to which the Government has to give its consent.

Article 9

The Agency is managed and represented by the director, and in the case of his absence by his deputy, which are appointed for period of 4 years by the Government.

Director and his deputy, cannot be appointed more then two times successively.

Article 10

Director, deputy director and members of their families cannot have ownership rights or any other interest in subjects which exploit telecommunications networks, provide equipment or services.

Article 11

The Government shall remove from office a Director or Deputy Director of the Agency before his term of office expires if:

1. he asks for that in written form;
2. he is sentenced to an unconditional prison sentence or is convicted of a deed which makes him unworthy of performing the function;
3. he performs his function in an unprofessional and careless manner;
4. he permanently loses capability of performing his function;
5. violates the Article 10 of this Law.

Article 12

The Agency is competent for:

1. providing competition in the area of telecommunications among persons involved in commercial activities connected for telecommunications activities in the Republic;
2. enabling persons providing telecommunications services in the Republic to be competitive in the provision of such services outside of the Republic;
3. enabling persons producing telecommunications apparatus/equipment in the Republic to be competitive in supply of such apparatus/equipment both in and outside of the Republic;
4. providing that public telecommunications operators and public telecommunications service providers do not engage in anti-competitive activities;
5. providing that users have access to public telecommunications networks and public telecommunications services on a non-discriminatory basis;
6. monitoring and regulation of public fixed telecommunications networks in those activities where a public telecommunications operator or a public telecommunications service

- provider has significant market position;
7. encouraging interconnection of networks on non-discriminatory bases and, if operators do not agree conditions in negotiation, the Agency is competent for determining conditions for interconnection of telecommunications networks;
 8. providing functioning of telecommunications operators on a non – discriminatory basis;
 9. giving proposals for distribution and allocation of radio frequencies to the Government and for regulating radio spectrum;
 10. issuing technical licenses for radio-station;
 11. monitoring development in the area of telecommunications, for gathering information from operators and for providing information for users, operators, other state bodies and international organizations;
 12. monitoring and controlling application of national and international technical standards;
 13. encouraging rational use of infrastructure on telecommunications objects, both on the existing ones and at building the new ones;
 14. issuing licenses, according to this Law
 15. organizing public tenders for the issue of special licenses according to the Law;
 16. controlling compliance of performing activities according to the terms of issued licenses;
 17. determining tariffs and for monitoring application of the determined irregularities in accordance to this Law;
 18. preventing irregularities regarding prices charged by telecommunications operators and telecommunications services providers;
 19. ensuring that the tariffs regarding connection to public telephone network and provision of telephone service, are unbundled enough so that the users are not required to pay for the capacities which are not necessary for the services he needs;
 20. preparing, controlling and monitoring plans and procedures for numeration and for allocating numbers efficiently on a non-discriminatory basis to public telecommunications operators and telecommunications service providers;
 21. taking care of realization of the rights of users, for receiving and dealing with users' complaints;
 22. resolving disputes between subjects in telecommunications activities (between users and operators, between operators, operators and objects or land owners);
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 23. publishing information and data in area of telecommunications, annual report about liberalization and indicators of quality of services of particular operators;
 24. undertaking activities which provide interested parties with the opportunity to protect their rights and legal interests;
 25. keeping records according to the Article 14 of this Law;
 26. providing availability of all information relating to its activities (except for official material or confidential information);
 27. requiring from public telecommunications operators and public telecommunications service providers to supply necessary information, including financial information;
 28. deciding whether a public telecommunications operator or service provider, with less than 25% market share, has significant market position or not, taking into account such factors as the operator's ability to influence market conditions, his financial result in relation to the size of the market, his control of the means for users' access, his access to financial resources and his experience in providing products and services at the market),
 29. performing other actions, according to this Law, which are necessary for exercising competencies of the Agency under this Law and regulations passed by the Ministry.

Article 13

The means for operation of the Agency are:

1. fees for licenses;
2. registration fees;
3. fees for radio frequencies; and
4. other incomes from activities of the Agency in accordance with this Law.

If the means from Paragraph 1 of this Article, according to the periodical calculation, do not cover the expenditures of the Agency, the remaining part is financed from the Republic budget. If the incomes exceed the expenditure for any completed financial year (according to reports of auditors), the surplus goes to the Republic budget.

Audits of financial operations of the Agency are done by the independent auditors appointed by the Government.

The Government provides means for the Agency to start working.

Resources available to the Agency are used for:

- financing the activities of the Agency;
- financing projects of liberalization and regulation of telecommunications market;
- costs of hiring experts in legal, technical and economic fields.

Article 14

Agency keeps records of:

1. issued licenses to operators and service providers;
2. issued licenses which assign radio-frequencies or radio-frequency ranges;
3. issued technical licenses for radio-stations;
4. concluded contracts on interconnection.

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All operators of telecommunications networks and providers of telecommunications services who obtain a license according to this Law must be registered with the Agency and pay the determined fee for registration.

Registers from paragraph 1 of this Article are public.

Article 15

Agency prepares and submits annual report, including its financial statement, to the Government. It contains data on:

1. dynamics of accomplishment of competition at telecommunications market and state of application of principles of tariff policy;
2. level of realization of universal service with merit of degree of satisfaction of users with it;
3. assigned frequencies for civil use, as well as estimation of efficiency of their use;
4. overview of development of telecommunications activities in the Republic.

Annual report of Agency is published in a way determined in the Statute of Agency.

III LICENCES FOR TELECOMMUNICATIONS NETWORKS AND SERVICES

Article 16

No person may construct, own or exploit a telecommunications network or provide or facilitate any telecommunications service unless he has first been issued a general or specific

license by the Agency, in accordance with the provisions of this Law.

A general license is a license issued to any physical or legal entity for performing the telecommunications activities for which it is not necessary to have a specific license.

A specific license is a license issued to a physical or legal entity for access to limited resources or in cases when operator is subject to special obligations or has special privileges.

Article 17

The Agency determines telecommunications activities for which it is not necessary to have a license, and the activities that belong to free regime.

Article 18

Informative contents distributed through cable-distributive networks or radio-diffuse networks, which are capable of providing telecommunications services to media are regulated by a special law.

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Article 19

General licenses will be issued by the Agency with standard terms and conditions, with limits on their duration. For issuing of general licenses, no other procedure is applied other than registration with the Agency under Article 14.

For issuing the general license, a one-time fee is paid.

Article 20

A specific license shall be issued after the Agency determines that the legal or physical entity complies with all the prescribed terms and conditions and after the procedure of public tender is conducted, if it is regulated by this Law.

The Agency may refuse to issue a specific license only in circumstances where the license application fails to meet the requirements determined by the Agency or for activities where the existing public telecommunications operator or service provider has been granted exclusive rights according to this Law or by the Government permission issued prior to the date when this Law came into force.

The specific license holder shall pay a one-time specific license fee for its issuance, as well as the fees determined under the terms and the conditions of the specific license contract, in the amount to be determined by the Ministry at the proposal of the Agency.

The specific license holder may also be required to provide a guarantee for payment of the fees in an amount not to exceed the specific license fee.

Specific licenses may not be transferred without the prior approval of the Agency, but the Agency shall not refuse approval where a license-holder proposes to grant any right of assignment to a bank or financial institution for the purposes of taking security for financing activity which is the subject of the relevant license.

The number of specific licenses available for a particular telecommunications activity or service may be limited by the Agency, only in case of exhaustion of limited resources.

The specific license shall be granted for a time period which cannot exceed twenty-five (25) years and may be renewed at the request of the specific license holder under conditions and in a manner determined by this Law.

Article 21

In the procedure of issuing specific license the Agency will ask for the following conditions and requirements to be fulfilled and met:

1. type of service, covered area, given radio-frequency range and capacity;
2. specification of technical conditions for network and equipment;
3. standards defining the required quality of service;
4. data about holder of license and conditions of shift of ownership;
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5. the expire period of license;
6. amount and conditions of payment of fees;
7. conditions which should be fulfilled regarding the open access to networks and services, as well as regarding interconnection with other networks;
8. obligations in terms of development or spreading networks or offering services, as well time plan for such activities;
9. protection of privacy of communications;
10. obligation to control fulfilling the conditions from license;
11. conditions under which the license ceases to be valid;
12. accepting obligations in financing universal service;
13. availability of numbers from the numbering plan;
14. rules on protection of users, which are specific for the area of telecommunications;
15. conditions for protection of environment and possible requests which include the approach to the public and private land and planning of joint locations for equipment;
16. other conditions.

Article 22

If there is a public tender for issuing the special license, the procedures are open, objective, transparent, non-discriminatory, in compliance with the activities for which the license is issued and they are published in the Gazette of the Republic of Montenegro and in the media. The special license is issued for the best offer, regarding economic, technical and other conditions which are required in public tender, in accordance with the Article 21 of this Law.

Article 23

The Agency can revoke the license from operator or service provider if:

1. he does not fulfill his obligations from the license or violates provisions of this Law concerning privacy of telecommunications; or
2. if he becomes insolvent or is subject to liquidation in other procedures which prevent him from performing his activities.

The procedure of revoking the license is done if within 60 days from the date when the written warning was sent by the Agency, the determined irregularities are not eliminated.

Article 24

Categorization of the licenses to general and specific and procedures, terms and conditions of issuing and revoking licenses shall be regulated in more details by the Agency.

Article 25

The decisions of the Agency are final.

Against the decisions of the Agency one can start a procedure at the competent court.

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Article 26

The existing public telecommunications operators in the Republic are obliged to submit application to the Agency to be granted new licenses on the basis of this Law. They are obliged to do that within 1 (one) year from the date when this Law comes into force.

For issuing the license from the Paragraph 1 of this Article no public tender will be open.

Article 27

The existing operator of the public fixed telecommunications network or his legal successor shall have the exclusive right, up to December 31, 2003, to provide public fixed telephone services, telex and telegraphy services, public payphone services and services of leasing lines to users in the Republic, and to construct, own and exploit the public fixed telecommunications network, as well as to organize, encourage or provide service of 'backcall'

and service of transferring voice through Internet in the Republic.

During the period determined in the Paragraph 1 of this Article, right to perform services of public payphone, according to the contracts concluded up to the date when this Law comes into force, belongs also to the Post Office of Montenegro Ltd., or its legal successor.

IV TARIFFS, INTERCONNECTION, UNIVERSAL SERVICE AND LEASED LINES

Article 28

Tariffs for public telecommunications services provided on competitive bases shall be determined by public telecommunications operators and telecommunications service providers themselves.

Article 29

The Agency shall establish, in consultation with the relevant operators or service providers, a special price regulation regime applicable to public telecommunications operators or public telecommunications service providers in case that there is only one public telecommunications operator or public telecommunications service provider or when the public telecommunications service provider has significant market position in the market for the service;

The Agency shall determine tariffs applicable in the special price regulation regime in such a way that:

1. they allow license-holders to recover reasonable costs of providing efficient services, including opportunity to enlarge capital sufficient to attract financing of new investments;
2. they encourage efficiency of operations and increase of profit, as a result of reduction in costs of providing services, provided that the license-holder has met all requirements which are defined by the license and regarding the provision and quality of service;
3. they are not discriminatory i.e. that the level and structure are connected to the cost of

providing services.

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In setting tariffs the Agency shall apply recommendations of the international organizations of which the Republic is a member.

Article 30

All public telecommunications operators have a right and, when requested by another such operator, an obligation to negotiate interconnection with each other for the purposes of providing certain services.

The Agency may limit this obligation, solely on the grounds that there are technically and commercially sustainable alternatives to the interconnection requested and that the requested interconnection is inappropriate in relation to the available resources.

Any limitation from the Paragraph 2 of this Article must be fully explained by the Agency and given to the operator requesting interconnection.

Article 31

Public telecommunications operators shall determine the terms and conditions of interconnection in an interconnection agreement. If the parties are unable to determine the terms and conditions within ninety (90) days from the date on which the request for interconnection was submitted, the Agency shall establish general conditions for such interconnection agreements.

The interconnection agreement shall contain provisions on all technical and financial conditions of interconnection.

Where the interconnection agreement is inconsistent with this Law, the Agency may require the interconnection agreement to be put in accordance with this Law. It shall be done through the regulations issued on the basis of this Law or the general interconnection conditions.

The signed agreement on interconnection will be delivered to the Agency to be registered.

All interconnection agreements shall be publicly available, except in case of protection of private or confidential information.

Article 32

Public telecommunications operator with a significant market position has to fulfill all the reasonable requirements for interconnection of his grids with other public telecommunications operators.

Interconnection has to be provided in term of ninety (90) days starting with the day on which the application for interconnection was submitted, or in any other term agreed on with the Agency, on the basis of technical conditions.

The Agency may impose to telecommunications operator with significant market position such interconnection agreement conditions which oblige such an operator to make publicly available certain information, including technical specifications, network characteristics and

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prices, and it can impose obligation of non-discrimination, as well as obligations of separating accountancy.

Article 33

If a public telecommunications operator refuses to provide interconnection, or if two public telecommunications operators do not reach an agreement on interconnection within ninety (90) days starting with the day of submitting application for interconnection, public telecommunications operators may apply to the Agency to resolve their dispute.

If the disputes from the Paragraph 1 of this Article is not resolved by the Agency within 60 days, such a dispute shall be referred to the competent court.

Article 34

The Ministry shall pass regulations for provision of universal service and the procedures used in financing the service.

By the regulations from the Paragraph 1 of this Article, the Ministry shall ensure that all reasonable requests for connection to the public fixed telecommunications network at a fixed location are met by at least one operator.

The regulations concerning provision of universal service shall include:

1. identification and description of the universal service to be provided;
2. procedures that will be used to select universal service providers (according to specified criteria such as size and spread of network, competition etc.);
3. methods for establishing the maximum prices for universal service, which shall be affordable, cost-based and geographically-balanced;
4. a mechanism for determining the compensation fee for the provider of universal service by the provider of telecommunications services (including contributions by other public telecommunications service providers and public telecommunications operators);
5. data that have to be provided by public telecommunications operators and public telecommunications service providers for the purpose of calculating the cost of providing universal service; and
6. other provisions.

Regulations from the Paragraph 1 of this Article are applied by the Agency.

Article 35

The Ministry shall designate the providers of universal service, which shall include the existing operator of the public fixed telecommunications network or its legal successor, for at least the period of its exclusive right to provide public fixed telephone service according to Article 27 of this Law.

During the period in which the operator of the existing public fixed telecommunications network, or his legal successor, has the exclusive right to provide services of public fixed telephony, the Ministry determines the rules for compensation which is paid to the operator of

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the public telecommunications network for his net costs (if there are any) of provision of universal services. This can also include determination of the fees that are paid by providers of mobile telecommunications services and other public telecommunications services.

Article 36

The Ministry determines the initial group of universal services which has to include:

1. access to the public fixed telephony service;
2. equal access to and affordability of publicly available telephone services for disabled users and users with special social needs;

3. access to emergency services free of charge and
 4. access to operator services and services of telephony directory.
- The Ministry shall periodically, and at least once in 2 years, review the scope of the universal services and may alter the list of services that are deemed to be universal.

Article 37

Public telecommunications operators have to allow access to their networks and services on transparent and non-discriminatory bases and terms of supply and use, offers of technical characteristics and tariffs for such access and use must be publicly available, subject to exceptions set out and expressly permitted in this law.

Until 31 December 2003, the existing operator of the public fixed telecommunications network or his legal successor shall have the exclusive right to lease lines to other operators and service providers.

As an exception to the Paragraph 2 of this Article, if the existing operator of the public fixed telecommunications network or his legal successor has no technical possibilities, the Agency shall, with his consent, allow other owners of telecommunications networks to lease lines to other operators and services providers.

Any operator or service provider can apply to the operator of the public fixed telecommunications network for a leased line and it must be provided, if it is available.

If the operator of public fixed telecommunications network does not provide a leased line according to the Paragraph 4 of this Article, then the Agency can be asked to resolve the dispute.

If the Agency does not resolve the dispute within 30 days, the dispute can be referred to the competent court.

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V RADIO FREQUENCY SPECTRUM

Article 38

Radio - frequency spectrum is a limited natural resource.

Radio - frequency spectrum of Republic of Montenegro is governed by the Agency, in accordance with the plan of designation of radio-frequencies and the plan for allocation of radio-frequencies.

The Government passes the plans mentioned in the Paragraph 2 of this Article at the proposal given by the Agency with the consent of the Ministry.

Plan of designation defines radio frequencies assigned for individual services, as well as basic conditions for using radio – frequency spectrum.

Plan of distribution of radio frequencies establishes conditions for distribution from the assigned extent, as well as distribution of radio frequencies to locations, for existing radio services.

Plans from the Paragraph 2 of this Article are public documents.

Article 39

Radio frequencies can be assigned as one or several separate, common or general, depending on the plan of designation and plan of distribution.

Radio frequencies are used on the basis of the specific license for radio frequencies issued by Agency after the open competition procedure.

License for radio frequencies contains:

1. data about holder of the right for using the frequency or extent;
2. data about assigned frequency or extent;
3. data about the zone of coverage, location of equipment, power of transmitter;
4. data about way of connection to public telecommunications network;
5. period in which the license is valid
6. obligation of control of fulfilling the license conditions;
7. obligation to acquire technical license for operation of a radio-station;
8. conditions under which the license ceases to be valid;
9. other conditions.

An enactment of the Agency gives more detailed description of the procedure and conditions of issuing licenses for radio frequencies and technical licenses for operation of radio-stations. License for radio-diffuse frequencies contains also the conditions regulated by the special Law.

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License for radio frequencies can be revoked if the conditions defined in the license and technical licenses for operation of radio-stations are not respected in course of operation.

Article 40

For building and exploitation of telecommunications networks and provision of telecommunications services which use radio-spectrum, use of frequencies is included in specific or general license, which is issued to the operators or service providers. In cases described in the Paragraph 1 of this Article the Agency shall ask for the conditions from the Articles 21 and 39 of this Law to be fulfilled.

Article 41

For using radio frequencies or extents one pays a fee. Its amount is proposed by the Ministry and determined by the Government.

Article 42

Telecommunications operators and service providers who own technical licenses for radiostations shall not be charged any fee for issuing new licenses up to the date when the old one expire.

VI CONDITIONS FOR BUILDING, MAINTENANCE, SAFETY AND USE OF TELECOMMUNICATIONS NETWORKS, BUILDINGS AND EQUIPMENT

Article 43

Telecommunications networks, buildings and equipment can be produced, projected, built, used and maintained according to technical norms, norms of quality of products and services and regulations which have to be in accordance with national and international standards.

Article 44

Telecommunications equipment, objects and radio-stations have to be respectively installed, built, used and maintained so that fulfillment of conditions of Electro-magnetic compatibility is provided and so that their operation does not provoke disturbances in functioning and using other telecommunications devices and equipment.

Article 45

The owner of the radio-station or the operator is obliged to provide protection of people from eventual harmful radiation of the devices. He is obliged to do that in accordance with the prescribed standards.

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Article 46

Telecommunications networks and telecommunications buildings can be built on the basis of permission given by the competent body and technical documents. The Agency has to give its consent to the technical documents.

Closer conditions for design of the technical documents from the Paragraph 1 of this Article are regulated by the Ministry at the proposal of the Agency.

Article 47

For the purpose of providing conditions for regular undisturbed functioning and development of telecommunications network, the owners of the networks have right, in the way and under conditions set by this Law, to build, install and maintain the objects and telecommunications connection devices that are constituent part of their telecommunications networks.

In the railway and road area the cable can be put under conditions that they do not put in danger the security of traffic and stability of traffic object, in a way determined by regulations, which refer to the area of traffic and traffic infrastructure.

Article 48

Owners of telecommunications networks, buildings and equipment used for provision of public telecommunications services or provision of telecommunications services of significance for safety of people and property, are obliged to provide continuity and safety of the services. They are obliged to keep regular records about it.

Public telecommunications operators are obliged to keep records on the determined disturbances, interruptions in provisions of services and failures of the telecommunications network.

Article 49

At building and installing telecommunications equipment on the land and objects which are not their property, operators of telecommunications networks are obliged to conduct the measures for protection of objects and equipment from damage which could be caused by normal using of the land or object.

Article 50

Close to telecommunications objects and equipment the works cannot be done or objects built which could damage or disturb its functioning.

If certain works have to be done or new objects built near telecommunications objects or equipment, investor and contractor are obliged to get agreement from the related operator in advance in order to take the necessary measures of protection and provision of undisturbed functioning of telecommunications.

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The expenditures of taking the measures and getting the agreement from the Paragraph 2 of this Article are the burden of the investor and contractor.

Article 51

The free ways for entering and exiting radio – relay connections (radio corridors) have to be determined in the town-plans of cities and city settlements.

Article 52

Close to the certain radio–stations and antenna constructions at the spreading routs of the directed radio–waves from one to another radio–station there has to be protection zone where other radio–stations or objects and constructions that can disturb the spreading of radio–waves or cause the disturbances in radio–connections cannot be built.

Article 53

Above onground and underground telecommunications lines or close to them, as well close to antenna constructions of radio–stations and at the routes of directed radio–waves from transmitting to receiving radio–stations no seedlings can exist that can damage or disturb the operation of the lines and connections.

If operation of the telecommunications lines or radio–connections at radio corridors is disturbed because the growth of the vegetation, the owner of the land is obliged to allow operator to undercut the vegetation.

Article 54

If it is necessary to change the radio-frequency extent, dislocate the certain object, construction, device or a connection road because of construction or reconstruction of some investment object, the dislocation will be done in accordance with the technical requirements for the telecommunications network.

The costs of dislocation from the Paragraph 1 of this Article shall be burden of the investor.

Article 55

Electric-power constructions for transmission, distribution and use of the electric power that are located close to telecommunications network or its part have to be built, used and maintained in such a way that their operation does not cause disturbances in functioning of related telecommunications network and does not put in danger lives and health of people working on the networks or using the networks.

Article 56

Electric and other constructions, devices and apparatuses cannot produce the Electro-magnetic disturbances in operation of any telecommunications network at receiving radio-television programmes and other messages.

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Electric and other constructions, devices and apparatuses produced or imported for use at the territory of the Republic have to have a certificate of being in accordance with measures for suppressing electro-magnetic disturbances in operation of telecommunications networks and at reception of radio – television and other signals.

Article 57

Telecommunications networks and telecommunications equipment or one part of them which represents a technological unit, can be commissioned and used when the Agency determines that technical parameters and the conditions prescribed in the license are fulfilled.

The way of determining the defined conditions from the license are prescribed by the Agency.

VIII PROTECTION OF USERS

Article 58

Anyone has right to use public telecommunications services, under conditions and prices that are determined, provided that it is technically possible.

The user has the following rights:

1. access to public telecommunications network within 15 days from the day of submitting application if it is technically possible;
2. uninterrupted and high-quality use of telecommunications services;
3. right to a detailed bill with the prices of telecommunications services in form which provides for control of expenditure;
4. secrecy of telecommunications.

Providers of telecommunications services and users regulate their mutual rights and obligations in agreement, the contents of which is prescribed by the Agency.

In order to exercise the rights from the Paragraph 2 of this Article, the providers of telecommunications services take measures and they are obliged to make the conditions for provision of services publicly available .

Article 59

Public telecommunications service provider can temporarily interrupt provision of telecommunications services to the user, if the user did not pay for the performed services within the term of 15 days, starting with the date when the written notice was delivered to him.

During the temporary interruption the provision of services shall be provided to the extent to which it does not create cost for the user.

If the user does not pay the due claims within 60 days from the day of temporary interruption, the provider of telecommunications services can terminate provision of telecommunications services permanently.

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Article 60

User has the right to submit a complaint to the bill, within the term of eight (8) days from the day he receives the bill. The provider of telecommunications services has to decide on the complaint in the next 15 days and deliver to the user the written explanation.

If the provider of services does not meet the request from the complaint of the user, or if he does not decide on it within 15 days from the day he received the complaint, the user has the right to complain to the Agency, which makes final decision.

Article 61

The providers of telecommunications services, the licenses are required for, have to define the rules of refunding their users in case that their services deviate in quality from the conditions determined in the licenses or if the services are interrupted.

Every user is entitled to ask from the provider of telecommunications services for payment of every direct or indirect loss suffered due to the failures in maintenance and operation of telecommunications network or telecommunications equipment used for provision of telecommunications service.

The user is entitled to indemnification on the grounds of every such unjustifiable interruption in provision of telecommunications services.

Article 62

Operator of telecommunications network cannot impose obligations to the user at the occasion of modernization of the network.

Users of public telecommunications services, operators and service providers, have the right to complain to the Agency regarding access or provision of services.

VIII PRIVACY AND SECURITY

Article 63

Public telecommunications operators and service providers are obliged to take appropriate technical and organizational measures in order to protect privacy of their services.

The persons from the Paragraph 1 of this Article cannot for themselves or for anybody else give information on contents, facts and conditions of transmission of messages, excluding the minimum necessary for offering the service.

Article 64

For the purposes of providing service, public telecommunications operator has to have insight into the contents of the message, he has to copy it or file it. He informs the user about it when

21 they sign the contract, and he has to delete the information about the message or copy of the message immediately after the need for operation of the service ceases to exist.

All kinds of listening, storage, recording, interruptions or monitoring the messages that are transmitted by telecommunications networks are forbidden, except with the consent of the users concerned.

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Article 65

Traffic data relating to users processed to establish calls may only be stored and processed by a public telecommunications operator in case that such data are necessary for the purpose of user billing and interconnection payments.

The data on users cannot be available to other persons except to the users or persons they authorize.

Article 66

Operators of telecommunications networks and service providers have to take the appropriate technical and organizational measures in order to provide the security of the service.

In the case that there is a possibility to influence security of communication, operator has to inform the user about it.

Operators and service providers have to inform the Agency, at its request, on the measures taken in order to achieve the security of transfer of messages.

If Agency proves the insufficient degree of security, operator has to eliminate the deficiency in the term defined by Agency.

IX SUPERVISION

Article 67

Supervision of whether telecommunications activities are performed legally or not, is done by the Agency.

Inspection supervision of performing telecommunications activities is done by the Agency, through its inspectors.

The provisions of the Law on inspection control are accordingly applied to the supervision from the Paragraph 2 of this Article.

Article 68

In performing supervision, the inspectors can especially:

1. order removal of failures if at building of telecommunications networks or buildings the technical regulations or standards have been irregularly applied;
2. ban building of objects and accompanying infrastructure, which jeopardizes operation of telecommunications networks and equipment;
3. order removal of the failures on telecommunications networks, buildings and equipment, which distract regular and correct operation of telecommunications networks or

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jeopardize health and lives of people. If there is a need they can determine measures to be undertaken;

4. order removal of failures on energetic plants, devices and lines, which could distract regular operation of telecommunications networks and stop works on electric plants, if they can put in danger lives and health of workers working on telecommunications equipment.

5. limit or ban use of an electric device, which, contrary to regulations, causes electromagnetic

disturbances, which endanger operation of telecommunications networks and equipment;

6. ban operation of radio-stations for which a license has not been granted, and if needed, pronounce measures to make its operation impossible;
7. temporarily ban operation of radio station which causes disturbances in operation of some other telecommunications equipment and determine deadline for removing its failures;
8. ban, with the consent of market inspection, sale of telecommunications equipment produced or imported for domestic market, and which does not fulfill technical and exploitation conditions for use.

X PUNITIVE PROVISIONS

Article 69

A fine amounting from fiftyfold to twohundredfold amount of the minimal salary in the Republic may be pronounced against the public telecommunications operator:

1. if he does not register the activity of providing telecommunications services with the Agency (Article 14);
2. If he establishes the public telecommunications network or makes changes on it, without registration with the Agency and without the license from the Agency (Article 16);
3. if he does not pay the registration fee and fee for license in the determined period (Article 20);
4. if he refuses the request for interconnection that is reasonable and necessary from technical aspect (Article 32);
5. if he does not offer the universal services according to the license issued or if he refuses the universal service, if it is not technically impossible (article 34);
6. if he does not provide access to public telecommunications network to user under equal conditions and using the telecommunications services under conditions that are publicly advertised (Article 37);
7. if he uses radio – frequency without the license issued by the Agency (Article 39);
8. if he does not pay the fee for license for radio frequencies in the determined terms (Article 41);
9. if at building and installing the telecommunications equipment he does not conduct the measures for protection of objects or equipment from damages caused by normal use of the land or objects where that equipment is placed (Article 49);
10. if he does not issue the detailed bill at the request of the user in the form that enables detailed control of consumption (Article 58);
11. if he does not define the rules for refunding the users in the case that their services, regarding their quality, are deviating from the license (Article 61);
12. if he does not keep the privacy of telecommunications or gives the information about contents, facts and conditions of transfer of messages (Article 63);
13. if he does not inform the user, when signing the contract, that he has to have insight into the contents of the messages, that he has to copy them and / or file them or if after the need for service ceases to exist he does not delete the information (Article 64)

For violations from the Paragraph 1, sections 1 and 2 of this Article, the sentence of taking away the means used for violation will be pronounced, and taking away of the illegally gained property gains.

A fine amounting from the fivefold to twentyfold amount of the minimum wage in Republic may be pronounced against person in charge in public telecommunications operator for breach from Paragraph 1 from this Article.

Article 70

A fine amounting to the tenfold to hundredfold amount of the minimal earning in the Republic will be pronounced against the legal entity:

1. if, close to telecommunications objects and equipment, he does works or builds objects that can damage or disturb its functioning without agreement of the public telecommunications operator owning those objects and equipment (Article 50);
 2. if, near certain radio stations and antenna constructions and at routes of directed radio waves from transmitting to receiving radio station he starts building constructions which could damage or disturb the operation of the wires and connections (Article 52)
 3. if he plants vegetation or does not enable undercutting of vegetation, which disturbs the operation of telecommunications lines or radio connections at radio corridors (Article 53);
- A fine amounting to the threefold to tenfold amount of the minimum wage in the Republic will be pronounced against the person in charge in a legal entity for breach from Paragraph 1 of this Article.

A fine amounting to the fivefold to fiftyfold amount of the minimum wage in the Republic will be pronounced against the entrepreneur for breach from Paragraph 1 of this Article.

A fine amounting to the onefold to tenfold amount of the minimum wage in the Republic will be pronounced against physical entity for breach from Paragraph 1 of this Article.

XI TRANSITIONAL AND FINAL PROVISIONS

Article 71

The Government will establish the Agency in the period of three months from the day when this Law comes into force.

Up to the moment of establishment of the Agency, the jobs from its competencies shall be performed by the Ministry.

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Article 72

The closer regulations and general enactment on the basis of authorization from this Law shall be passed in the term of six months as of the day coming of this Law into force.

Up to the time when the regulations from the Paragraph 1 of this Article are passed, the valid regulations which are not contrary to this Law shall be applied.

Article 73

Public telecommunications operators will adjust their operation with provisions of this Law in the period of one year as of the day coming of this Law into force.

Article 74

The validity of Law on system of connections ("Official Gazette of the Republic of Montenegro", no. 28/77, 29/77, 32/89, 13/91) terminates as of the day coming of this Law into force.

This Law is downloaded from MIPA's web site: www.mipa.cg.yu

Article 75

This Law comes into force on the eighth day after publishing in the "Official Gazette of the Republic of Montenegro".