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legally binding texts are those in Finnish and Swedish**  
Ministry of Transport and Communications, Finland

# Communications Market Act

(393/2003; amendments up to 119/2008 included)

## Chapter 1 General provisions

### Section 1 Objectives of the Act

The objectives of the Act are to promote the provision and use of services within communications networks and to ensure that communications networks and communications services are available under reasonable conditions to all telecommunications operators and users throughout the country. A further objective of the Act is to ensure that the opportunities available for telecommunications in Finland accord with the reasonable needs of users and that the opportunities are competitive, technologically advanced, of high quality, reliable, safe, and inexpensive.

### Section 2 Definitions

For the purposes of this Act:

- 1) *communications network* means a system comprising cables and equipment joined to each other for the purpose of transmitting or distributing messages by wire, radio waves, optically or by other electromagnetic means;
- 2) *public communications network* means a communications network available to a set of users that is not subject to any prior restriction;
- 3) *mobile network* means a communications network primarily used for targeted communications in which the terminal equipment is connected to the communications network by means of freely propagating radio waves;
- 4) *fixed telephone network* means a communications network primarily used for targeted communications in which the terminal equipment is connected to the communications network by a cable or other leased line;
- 5) *telephone network* means a mobile network or a fixed telephone network;
- 6) *mass communications network* means a communications network primarily used for broadcasting or providing television and radio programmes or other material transmitted in identical form to all recipients;

7) *terrestrial mass communications network* means a mass communications network that functions by means of freely propagating radio waves;

8) *cable television network* means a mass communications network that functions using cables or other leased lines;

9) *public authority network* means a communications network built for the needs of public order and security, rescue activities or civil defence, whose subscriber connections can be made available not only to public authorities but also to other user groups essential to the discharging of the duties referred to above;

10) *local loop* means the part of a fixed telephone network that lies between the user's subscriber connection and the equipment used to route the messages;

11) *leased line* means a service that provides a defined transmission capacity between termination points in a communications network but does not include the routing of messages;

12) *cable duct* means a protective structure used in constructing a public communications network for the purpose of accommodating telecommunications cables;

13) *interconnection* means the physical and functional connecting of different communications networks and communications services to ensure that users can access communications networks and communications services of other telecommunications operators;

14) *international telecommunications service* means a communications service that transmits telecommunications between subscriber connections located in Finland and abroad;

15) *long-distance telecommunications service* means a communications service that transmits telecommunications between subscriber connections located in different telecommunications areas;

16) *local telecommunications service* means a communications service that transmits telecommunications between subscriber connections located in the same telecommunications area;

17) *network operator* means an operator that provides a communications network in its ownership or for other reasons in its possession for the purposes of transmitting, distributing or providing messages;

18) *network service* means a service provided by a network operator;

19) *service operator* means an operator that transmits messages over a communications network in its possession or obtained for use from a network operator or distributes or provides messages in a mass communications network;

20) *communications service* means a service provided by a service operator;

21) *telecommunications operator* means a network operator or a service operator;

22) *telecommunications* means a network service or communications service;

23) *public telecommunications* means the provision of a network service or a communications service to a set of users that is not subject to any prior restriction;

24) *user* means a person who uses services provided by a telecommunications operator for purposes other than telecommunications;

25) *roaming* means mobile network access rights provided by one network operator to another network operator in a geographical area in which both network operators have a licence;

26) *international roaming* means mobile network access rights provided by one network operator to another network operator in a geographical area in which only the network operator providing the roaming has a licence;

27) *consumer* means a natural person who uses services primarily for non-occupational purposes. (70/2007)

28) *universal service* means provision of universal telephone services in a fixed location and provision of directory enquiry services and directories. (70/2007)

### **Section 3 Scope of application of the Act**

- (1) This Act applies to communications markets unless otherwise provided below. Communications markets mean markets of network services, communications services and related services.
- (2) This Act does not apply to the content of messages transmitted in a communications network.

## **Chapter 2 Operating in telecommunications**

### **Section 4 Telecommunications subject to licence**

- (1) A licence is required to provide a network service that uses radio frequencies in a digital terrestrial mass communications network or in a mobile network practising public telecommunications.
- (2) The provisions of subsection 1 also apply to a mobile network functioning as a public authority network and operating in more than one municipality.

**Section 5**  
**Announcing that a licence is available for application**

- (1) An announcement shall be made that a licence is available for application when frequencies that are technically appropriate and appropriate for efficient frequency use become available for the purposes of telecommunications subject to a licence.
- (2) The availability of a licence for application is announced by the Government in accordance with the frequency band utilization plan referred to in section 6 of the Radio Act (1015/2001).

**Section 6**  
**Content of a licence application**

All information necessary to assess compliance with the licence requirements referred to in section 9 shall be given in a licence application. Further provisions on the content of the application shall be given by decree of the Ministry of Transport and Communications.

**Section 7**  
**Application fee**

- (1) A licence applicant is required to pay to the State an application fee of 1,000 euros for the application.
- (2) No application fee need be paid, however, for a licence application concerning a public authority network.

**Section 8**  
**Licensing authority and licensing procedure**

- (1) Licences are granted by the Government for a fixed period of up to 20 years.
- (2) A decision on a licence shall be made within six weeks of the close of the application period. In special cases the Government may extend the six-week deadline by eight months at most if this is necessary to ensure that the application procedure is fair, reasonable, clear and transparent or to supplement the information in the applications or for other special reasons. Any extension to the deadline shall be announced publicly.

**Section 9**  
**Material requirements for a licence**

- (1) A licence shall be granted if:
  - 1) the applicant has sufficient economic resources to meet the network operator obligations; and
  - 2) the licensing authority has no justifiable reason to suspect that the applicant will violate the provisions of this Act, the Radio Act, the Act on the Protection of Privacy

in Electronic Communications (516/2004) or any other act on telecommunications. (518/2004)

- (2) A licence for providing network service in a public authority network shall be granted if the applicant, in addition to fulfilling the requirements referred to in subsection 1, has the ability and professional skills needed in regard to the special nature of the operation.
- (3) If a licence referred to in subsections 1 or 2 cannot be granted to all applicants due to the scarcity of radio frequencies, it shall be granted to applicants whose operation best promotes the purposes laid down in section 1 of this Act.

### **Section 10 Content of a licence**

- (1) The geographical operating area of the telecommunications operator shall be defined in the licence.
- (2) Provisions contained in sections 1 and 128 of this Act or supplementary clauses to the technical orders of the Finnish Communications Regulatory Authority referred to in section 129 of this Act concerning the technical characteristics of communications networks or the efficient use of frequencies may be incorporated into a licence. These licence terms shall be in accordance with the aims determined in section 1 of this Act.
- (3) A licence for providing network service in a terrestrial mass communications network may be granted on condition that the licence-holder for his part ensures that the Finnish Broadcasting Company Ltd and a programming licence-holder referred to in section 7(1) of the Act on Television and Radio Operations (744/1998) and in section 2(1) of the Provincial Act on Broadcasting Operations (Åland Island Statute Book 117/1993) obtain the necessary capacity at a cost-oriented price for operating the activity. By means of the terms referred to above, the licensing authority shall ensure that the radio and television operators referred to have access to the capacity necessary for the operations in all circumstances.
- (4) Terms may be incorporated into a licence that concern the amount of capacity reserved for a programming licence-holder or cooperation between programming licence-holders in matters relating to capacity distribution or electronic programme guides. Terms concerning broadcasting technology may also be incorporated into a licence.

### **Section 11 Amendment to the operating licence**

A licence may be altered during its validity period with the consent of the licence-holder or otherwise if it is necessary for special reasons due to technical development or an essential change in the operating conditions of an activity subject to a licence.

## **Section 12**

### **Cancellation or transfer of a licence**

(1) The Government may cancel the licence of a telecommunications operator in part or in full, if:

1) the telecommunications operator has repeatedly and seriously violated the provisions of this Act, the Radio Act, the Act on the Protection of Privacy in Electronic Communications or any other act on telecommunications or the licence terms referred to in section 10 of this Act; or

2) the telecommunications operator no longer has sufficient economic resources to meet its obligations in view of the nature and extent of the operation;

and if the telecommunications operator, despite being requested to do so, fails to rectify its conduct or replenish its economic resources to a sufficient level within a reasonable deadline of at least one month.

(2) A licence is non-transferable. The Government may cancel a licence if the effective control of in respect of the licence-holder changes. Any such change shall be notified immediately to the licensing authority. The Government shall decide on whether to cancel the licence within two months of the notification.

(3) The internal transfer of a licence within a group between the parent company and a wholly owned subsidiary is not considered to be a licence transfer that would require cancellation. Such a transfer shall be notified immediately to the licensing authority.

## **Section 13**

### **Telecommunications subject to notification**

(1) A written notification of the intention to operate public telecommunications shall be submitted to the Finnish Communications Regulatory Authority before the operations begin (*telecommunications notification*). The notification duty does not apply to public telecommunications that is temporary in nature, aimed at a small audience or otherwise of minor significance.

(2) Further provisions on the type of telecommunications considered to be of minor significance may be given by Government decree.

## **Section 14**

### **Telecommunications notification**

(1) All information necessary for the purposes of supervision shall be entered in a telecommunications notification. Further provisions on the content of a telecommunication notification shall be given by decree of the Ministry of Transport and Communications.

(2) The Finnish Communications Regulatory Authority shall be notified of any change in the information entered in a telecommunications notification. If a telecommunications operator discontinues its operations, it shall notify the Finnish Communications

Regulatory Authority of this no later than one week before the discontinuation of operations. If the telecommunications operator is a service operator, the network operator whose communications network the service operator uses shall also notify the Finnish Communications Regulatory Authority of the matter. The Finnish Communications Regulatory Authority may also state on its own initiative that the operations of a telecommunications operator have ended if the Finnish Communications Regulatory Authority receives reliable evidence of terminated operations. (759/2006)

## **Section 15**

### **Confirmation of receipt of a telecommunications notification**

On the request of the telecommunications operator, the Finnish Communications Regulatory Authority shall provide confirmation of the receipt of a telecommunications notification within a week of the request being made. The confirmation notice given by the Finnish Communications Regulatory Authority shall indicate the rights and obligations of telecommunications operators in Finland under this Act.

## **Section 15 a**

### **Communications market fee**

- (1) A telecommunications operator subject to notification or licence shall pay an annual communications market fee to the Finnish Communications Regulatory Authority. No communications market fee shall be charged for turnover from television and radio broadcasting activities as referred to in the Act on Television and Radio Operations. The communications market fee covers the costs incurred to the Finnish Communications Regulatory Authority for carrying out the duties provided in this Act concerning telecommunications operators, excluding the duties referred to in Section 49.
- (2) The communications market fee shall be determined in payment units according to payment categories. One payment unit equals EUR 350. Operators are assigned to payment categories in order to take into account the average costs incurred to the Finnish Communications Regulatory Authority for carrying out the duties related to operators in the respective category. The payment category for each operator shall be determined by the turnover that the operator has for telecommunications activities in Finland during the period that precedes the determination of the fee. Further provisions on the turnover as a basis for the payment category are laid down in section 15 b. The communications market fee shall be determined as follows:

Payment category	Turnover (mill. €)	Payment units
1	less than 1	2
2	1 - less than 2	4
3	2 - less than 4	7
4	4 - less than 8	14
5	8 - less than 16	26
6	16 - less than 32	50
7	32 - less than 64	94
8	64 - less than 128	179

9	128 - less than 256	340
10	256 - less than 512	645
11	512 - less than 1024	1226
12	1024 or more	2330

- (3) Provisions on the determination of the communications market fee for the first year of operations are laid down in section 15 d. (26/2006)
- (4) If a telecommunications operator discontinues its operations before the end of the payment period, the communications market fee shall not be returned. (26/2006)

**Section 15 b**  
**Turnover as a basis for the payment category**

- (1) If a telecommunications operator is a part of a corporate group as referred to in chapter 1(6) of the Accounting Act, the basis for the telecommunications operator's fee shall be the operator's share of the total turnover from telecommunications activities in Finland by the group's liable operators deducted by their mutual turnover from these activities. Even if the parent company is not Finnish, the basis for the fee shall remain the same.
- (2) If there have been changes in the corporate structure between the end of the previous financial period and the time of issuing the communications market fee decision, the payment category is determined on the basis of the operator's share of the total turnover from telecommunications activities in the previous closed financial period. (26/2006)
- (3) If telecommunications activities have been transferred to another undertaking between the end of the financial period of the previous year and the time of issuing the payment decision, the obligation to pay the fee falls on the undertaking that is involved in public telecommunications at the time of issuing the payment decision. In determining the payment category the confirmed turnover of the transferred telecommunications activities for the previous closed financial period shall be taken into account. (26/2006)
- (4) If the financial period of the telecommunications operator is other than a calendar year, the turnover will be converted into a sum corresponding a calendar year's turnover by multiplying it by 12 and then dividing it with the number of months in the financial period concerned. (26/2006)
- (5) Further provisions on how the Finnish Communications Regulatory Authority must be provided with the information necessary for determining the fee may be given by decree of the Ministry of Transport and Communications.

**Section 15 c**  
**Stipulation and collection of the communications market fee**

- (1) An obligation for an operator to pay a communications market fee shall be stipulated by the Finnish Communications Regulatory Authority. An appeal may be made against a decision of the Finnish Communications Regulatory Authority concerning

the stipulation of the fee as laid down in section 127(1). Further provisions on the implementation of the fee may be given by decree of the Ministry of Transport and Communications.

- (2) A telecommunications market fee may be collected without a judgement or a decision in a manner laid down in the Act on collecting taxes and payments through execution (367/1961). If the fee is not settled by due date, annual interest on delayed payments shall be charged for the unpaid amount according to the interest rate referred to in section 4 of the Interest Act (633/1982). Instead of the interest rate the authority may collect a default payment of five euros if the amount of the interest rate is less than that.

### **Section 15 d (26/2006)**

#### **Payment obligation in certain exceptional circumstances**

- (1) If no sufficiently reliable account of the turnover is available due to missing financial statements or some other comparable reason that is especially weighty, an estimate of the turnover by the Finnish Communications Regulatory Authority may be used as the basis for the payment. In the estimate due consideration must be given to:
- 1) telecommunications operator's extent of operations;
  - 2) telecommunications operator's position on the market;
  - 3) data about the telecommunications operator's services, number of clients and invoicing;
  - 4) reference data about other telecommunications operators providing similar services; and
  - 5) other similar elements affecting the telecommunications operator's turnover.
- (2) Before taking the measures referred to in subsection 1 the Finnish Communications Regulatory Authority shall ask the telecommunications operator to submit the information needed for determining the communications market fee within a reasonable period on pain of the Finnish Communications Regulatory Authority estimating the turnover.

## **Chapter 3**

### **Imposing obligations on a telecommunications operator**

#### **Section 16 Market definition**

- (1) The Finnish Communications Regulatory Authority shall issue decisions at regular intervals defining the relevant communications markets.
- (2) In defining the relevant communications markets, the Finnish Communications Regulatory Authority shall work in cooperation with the Ministry of Transport and Communications. If in the view of the Ministry of Transport and Communications

there is a need to define national markets in Finland not based on the market definition recommendation of the Commission of the European Communities, the definition shall be made by a decision of the Ministry of Transport and Communications.  
(26/2006)

- (3) A decision on market definition shall not be subject to separate appeal.

### **Section 17**

#### **Market analysis and a decision on significant market power**

- (1) At regular intervals the Finnish Communications Regulatory Authority shall perform a market analysis of relevant wholesale and retail markets in order to establish the competitive situation. By decision, the Finnish Communications Regulatory Authority shall declare a telecommunications operator to be an operator with significant market power if, on the basis of market analysis, it is seen in a particular market to exert economic influence, alone or with others, that allows it to operate, to a considerable extent, independently of competitors, consumers or other users.
- (2) If a telecommunications operator has significant market power in a particular market, it may also be considered to have the same position in related markets if it is also able to strengthen its market power in those markets.
- (3) The Finnish Communications Regulatory Authority shall amend a decision on significant market power if a market analysis shows that significant changes have occurred in the competitive situation in the market. The decision may contain changes to the obligations imposed on the operator with significant market power or the decision may be taken that the telecommunications operator is no longer considered to be an operator with significant market power.

### **Section 18**

#### **Obligations imposed on an operator with significant market power**

- (1) By issuing a decision accordingly, the Finnish Communications Regulatory Authority shall impose on an operator with significant market power obligations referred to in subsection 2 if they are needed to eliminate barriers to competition or to promote competition. The obligations shall be in correct proportion to the aim being addressed. In imposing an obligation, the following in particular shall be taken into account:
- 1) the appropriateness of access rights in technical and economic terms, taking into account the degree of development of the markets and the type of access rights;
  - 2) feasibility of the access rights, taking into account the capacity available;
  - 3) the requirements concerning protection of privacy and information security;
  - 4) the investment made and risks taken by the operator with significant market power;
  - 5) the need to safeguard competition in the long term;
  - 6) relevant industrial property rights and copyrights;

7) the provision of services at European level. (1327/2007)

(2) Subject to the requirements and terms laid down below in this Act, an operator with significant market power may be obliged to:

- 1) relinquish access rights to a mobile network as laid down in section 23;
- 2) lease out part of a local loop and equipment facilities as laid down in section 24;
- 3) rent a leased line as laid down in section 25;
- 4) lease out an antenna site and part of a cable duct as laid down in section 26;
- 5) relinquish cable television network capacity as laid down in section 27;
- 6) lease out part of a terrestrial mass communications network as laid down in section 28;
- 7) relinquish capacity in a terrestrial mass communications network as laid down in section 29;
- 8) relinquish access rights to smart card capacity as laid down in section 30;
- 9) relinquish access rights to an electronic programme guide as laid down in section 31;
- 10) relinquish access rights to a programming interface for a television or radio system as laid down in section 32;
- 11) publish delivery terms and tariff information as laid down in section 33;
- 12) organize national roaming as laid down in section 34;
- 13) organize international roaming as laid down in section 36;
- 13 a) relinquish other reasonable access rights, related or comparable to those mentioned above, to a communications network element or to a network element function as laid down in section 36 a; (1327/2007)
- 14) comply with the provisions laid down in section 37 concerning pricing and other terms (47/2005);
- 15) join a communications network to another communications network as laid down in section 39;
- 16) provide pre-selection for international calls in a mobile network as laid down in section 62;
- 17) use cost-accounting procedures as laid down in section 87;

18) separate its activities as laid down in section 89.

- (3) The Finnish Communications Regulatory Authority shall amend a decision referred to in subsection 1 if significant changes occur in the matters referred to in that subsection or in the competitive situation in the markets.

### **Section 19**

#### **Obligations imposed on other telecommunications operators**

- (1) By decision, the Finnish Communications Regulatory Authority may impose special obligations consistent with this Act on telecommunication operators that do not have significant market power.
- (2) Subject to the requirements and terms laid down below in this Act, a telecommunications operator may be obliged to:
- 1) lease out part of a local loop and equipment facilities as laid down in section 24;
  - 2) lease out an antenna site and part of a cable duct as laid down in section 26;
  - 3) relinquish access rights to an electronic programme guide as laid down in section 31;
  - 4) relinquish access rights to a programming interface for a television or radio system as laid down in section 32;
  - 5) publish delivery terms and tariff information as laid down in section 33;
  - 6) comply with the provisions laid down in section 37 concerning pricing and other terms (47/2005);
  - 7) join a communications network to another communications network as laid down in section 39.
- (3) The Finnish Communications Regulatory Authority shall amend a decision referred to in subsection 1 if significant changes occur in the circumstances that required the obligation to be imposed.

### **Section 20**

#### **Obligations imposed on a telecommunications operator in a retail market**

- (1) If the Finnish Communications Regulatory Authority, following a market analysis, finds that no competition exists in that defined retail market and that the obligations referred to in section 18 imposed on an operator with significant market power in the wholesale market do not sufficiently promote competition in the retail market, but that the imposition of additional obligations is necessary to secure efficient competition, the Finnish Communications Regulatory Authority shall impose, by decision and where necessary, additional obligations referred to in subsection 2 on the retail market operator with significant market power.

- (2) In order to achieve the aim referred to in subsection 1, the Finnish Communications Regulatory Authority may order that an operator with significant market power operating in a retail market:
- 1) may not charge unreasonable prices;
  - 2) may not prevent access to the market or restrict competition by unjustifiably low pricing;
  - 3) may not favour certain service recipients in an unwarranted manner;
  - 4) may not tie a specific product or service to other products or services.
- (3) Any additional obligation imposed shall be in correct proportion to the aim being addressed.
- (4) The Finnish Communications Regulatory Authority shall amend a decision referred to in subsection 1 if there are significant changes in the competitive situation in the market.

### **Section 21**

#### **Consulting the Commission and the regulatory authorities**

- (1) The Finnish Communications Regulatory Authority shall reserve an opportunity for the Commission of the European Communities and the regulatory authorities of the States of the European Economic Area (*EEA States*) to present their statements within a period of one month before any of the following measures affecting trade between EEA States are taken:
- 1) a market definition deviating from the Commission recommendation;
  - 2) a market analysis;
  - 3) a decision concerning significant market power;
  - 4) a decision concerning obligations to be imposed on telecommunications operators.
- (2) The Finnish Communications Regulatory Authority may also request that the statements on the measures or decisions referred to in subsection 1 be given simultaneously, if this is appropriate.
- (3) If the Commission states that a market definition deviating from a Commission recommendation or a proposed decision on significant market power does not accord, in its view, with the law of the European Communities, the measure or decision shall be postponed for two months. No decision on a market definition or significant market power may be made that is contrary to the decision taken by the Commission within the two-month deadline referred to above.

**Section 22**  
**Procedure in urgent and minor cases**

- (1) Market definitions, market analyses and Finnish Communications Regulatory Authority decisions on significant market power or on obligations to be imposed on telecommunications operators may be made without consulting the Commission and the regulatory authorities of the EEA States if the measure has no significant effect on the markets or if the measure is urgent and necessary to safeguard competition and the interests of consumers.
- (2) The Finnish Communications Regulatory Authority shall without delay submit the market definition, market analysis or decision referred to in subsection 1 to the Commission for its information.

**Chapter 4**  
**Obligations of a telecommunications operator to relinquish access rights**

**Section 23**  
**Obligation to relinquish access rights to a mobile network**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a network operator with significant market power to relinquish access rights to its mobile network to service operators.
- (2) In cases referred to in subsection 1, a service operator has the right to open and close mobile network subscriber connections itself and the right to independent control over the associated customer relationships.
- (3) Provisions on roaming in a mobile network are laid down in sections 36 and 37.

**Section 24**  
**Obligation to lease out part of a local loop and equipment facilities**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to lease out to other telecommunications operators the following elements of a fixed telephone network:
  - 1) a local loop or part of it;
  - 2) part of the local loop capacity for shared use;
  - 3) part of the local loop transmission capacity for shared use;
  - 4) equipment facilities if this is necessary for the purposes of installing minor equipment items essential for using a local loop.
- (2) The obligation does not apply, however, if the leasing endangers the protection of privacy or is technically inappropriate from the viewpoint of the network operator or is otherwise unreasonable. (26/2006)

- (3) In the decision referred to in subsection 1, the Finnish Communications Regulatory Authority may impose on the network operator other obligations necessary for the technical implementation of the obligation referred to in subsection 1.
- (4) A network operator on which an obligation to observe cost-oriented pricing has been imposed under section 37 may charge a fee for shared use of a local loop that amounts to no more than half of the fee charged by the operator for an equivalent local loop unless the network operator proves that the costs are higher. With regard to transmission capacity the fee may additionally include a compensation for the use of the equipment.
- (5) By a decision under section 19, the Finnish Communications Regulatory Authority may impose an obligation referred to in subsection 1 on a telecommunications operator that does not have significant market power if the operator controls user connections to the communications network and if the imposition of the obligation is necessary to ensure the benefit to users.

**Section 25**  
**Obligation to provide line rental of a leased line**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to rent a leased line to telecommunications operators and users.
- (2) In the decision, the Finnish Communications Regulatory Authority may define the transmission capacity of a leased line. In defining the transmission capacity, the Finnish Communications Regulatory Authority shall have regard to the provisions of the European Communities on the minimum choice of leased lines.

**Section 26 (26/2006)**  
**Obligation to lease out an antenna site and cable duct**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to lease out part of a cable duct or a radio mast antenna site to telecommunications operators.
- (2) By a decision under section 19, the Finnish Communications Regulatory Authority may impose an obligation referred to in subsection 1 on an operator that does not have significant market power, if the construction of a parallel cable duct or radio mast is not appropriate for reasons of environmental protection, nature conservation or land-use planning or other comparable reason.
- (3) The obligation to lease out a radio mast antenna site may, on the grounds referred to in subsection 2, also be imposed on another than a telecommunications operator, if the operator leases out the antenna site to some telecommunications operator.

### **Section 27**

#### **Obligation to relinquish cable television network capacity**

By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to relinquish access rights to cable television network capacity to telecommunications operators.

### **Section 28**

#### **Obligation to lease out part of a terrestrial mass communications network**

By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to lease out part of a terrestrial mass communications network to telecommunications operators.

### **Section 29**

#### **Obligation to relinquish capacity in a terrestrial mass communications network**

By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power that has a licence under section 4 to relinquish access rights to terrestrial mass communications network capacity to telecommunications operators.

### **Section 30**

#### **Obligation to relinquish access rights to smart card capacity**

By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to relinquish access rights to smart card capacity used in managing network termination points of mobile telephone subscriber connections or of another equivalent communications network to telecommunications operators or other companies. The obligation may not be imposed, however, if the telecommunications operator uses the smart card capacity only for the purposes of managing network termination points.

### **Section 31**

#### **Obligation to relinquish access rights to an electronic programme guide**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to relinquish access rights to an electronic programme guide to digital television or radio to telecommunications operators.
- (2) By a decision under section 19, the Finnish Communications Regulatory Authority may impose the obligation referred to in subsection 1 on an operator that does not have significant market power if this is necessary to ensure that information on digital television and radio broadcasts covered by the transmission obligation referred to in section 134 are made available to the public in an electronic programme guide.

### **Section 32**

#### **Obligation to relinquish access rights to a programming interface for a television or radio system**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to relinquish access rights to a programming interface for a digital television or radio system to telecommunications operators.
- (2) By a decision under section 19, the Finnish Communications Regulatory Authority may impose the obligation referred to in subsection 1 on an operator that does not have significant market power if it is necessary to ensure that information on digital television and radio broadcasts covered by the transmission obligation referred to in section 134 can be connected to the programming interface used.

### **Section 33**

#### **Obligation to publish delivery terms and tariff information**

- (1) By a decision under section 18 or 19, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator to publish information important with regard to leasing obligations, access rights or interconnection, such as information on service delivery terms, tariff information and agreements made, to the extent that it does not include business secrets or confidential information.
- (2) The Finnish Communications Regulatory Authority may impose the obligation referred to in subsection 1 on a telecommunications operator with significant market power even if no leasing obligation or obligation to relinquish access rights is imposed on the operator.

### **Section 34 (70/2007)**

#### **Obligation to organize national roaming**

By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on an operator with significant market power operating in a mobile network to arrange national roaming.

### **Section 35 (70/2007)**

**(Section 35 has been repealed by the Act of 2 February 2007.)**

### **Section 36**

#### **Obligation to organize international roaming**

- (1) A network operator with significant market power and with a licence for a mobile network has an obligation to negotiate on international roaming with another network operator located within the territory of an EEA State.
- (2) By a decision under section 18, after application by another telecommunications operator located within the territory of an EEA State, the Finnish Communications

Regulatory Authority may impose an obligation on an operator with significant market power to organize international roaming.

**Section 36 a (1327/2007)**  
**Other obligation to relinquish access rights**

By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator with significant market power to relinquish other reasonable access rights comparable to those referred to in sections 23-32, 34 and 36 to a communications network element or to a network element function to telecommunications operators.

**Section 37 (47/2005)**  
**Pricing and other terms for relinquishing access rights and for interconnection**

- (1) By a decision under section 18 or 19, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator to:
  - 1) specify the prices to be charged for relinquishing access rights, for roaming or interconnection in such a way as to ensure that the prices are either cost-oriented or non-discriminatory or cost-oriented and non-discriminatory as referred to in section 84;
  - 2) otherwise apply non-discriminatory terms;
  - 3) apply in the pricing of access rights referred to in sections 24 and 25 the maximum price set by the Finnish Communications Regulatory Authority.
- (2) The Finnish Communications Regulatory Authority may impose the pricing obligation referred to in subsection 1(1 and 2) on a telecommunications operator with significant market power even if no obligation concerning interconnection or relinquishing access rights is imposed on the operator.
- (3) The maximum price referred to above in subsection 1(3) may be set in exceptional cases only, if the price charged for the access rights clearly exceeds the general price level or is otherwise necessary in order to meet the purpose of access rights. The maximum price shall be specified in such a way that it is cost-oriented as referred to in section 84. The price ceiling shall be set for a maximum period of three years at a time. Provisions of sections 18(3) and 19(3) shall apply to the Finnish Communications Regulatory Authority's obligation to remove a set price ceiling.

**Section 38 (1327/2007)**  
**Own use or reasonable future need**

Notwithstanding any obligation imposed under sections 23-30, 34, 36, or 36 a the obligation does not apply if the object of the access rights is used by the telecommunications operator itself or by a telecommunications operator referred to in section 26(3) or if it is necessary for the reasonable future needs of these telecommunications operators.

**Chapter 5**  
**Interconnection obligations of a telecommunications operator**

**Section 39**  
**Interconnection obligations of a telecommunications operator**

- (1) A telecommunications operator has an obligation to negotiate on interconnection with another telecommunications operator.
- (2) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on an operator with significant market power to connect a communications network or communications service to the communications network or communications service of another telecommunications operator.
- (3) By a decision under section 19, the Finnish Communications Regulatory Authority may impose the obligation referred to in subsection 2 on an operator that does not have significant market power, if the telecommunications operator controls user connections to the communications network and if the imposition of the obligation is necessary to ensure the interconnectability of communications networks.
- (4) A telecommunications operator on which the Finnish Communications Regulatory Authority has imposed an interconnection obligation shall comply with the provisions of sections 40-42 and 45 unless an agreement can otherwise be reached on the content of the interconnection obligation.

**Section 40**  
**Establishing interconnection**

- (1) Interconnection shall be established at the point specified by the telecommunications operator requesting the interconnection unless this is technically inappropriate or unreasonable from the perspective of the telecommunications operator with the obligation to establish the interconnection.
- (2) Interconnection shall be established as quickly as is technically possible.
- (3) The charge for the use of the telephone network of the telecommunications operator requesting the interconnection that is collected from the telecommunications operator with the obligation to establish the interconnection shall not be unreasonable.

**Section 41**  
**Interconnection of international telecommunications services**

- (1) Telecommunications with other countries shall be routed to an international telecommunications service via a long-distance telecommunications service selected by the telecommunications operator providing the international service.
- (2) All public international telecommunications services shall provide access to all local telecommunications services.

**Section 42 (26/2006)**

**(Section 42 has been repealed by the Act of 20 January 2006.)**

**Section 43**  
**Charge for the use of a telephone network**

- (1) A telecommunications operator shall specify a separate price for the charges collected from another telecommunications operator for use of the telephone network to form a connection where this connection is between the telephone network of the telecommunications operator and the telephone network of another telecommunications operator (*outgoing traffic*).
- (2) However, it is not necessary to specify a separate price for outgoing traffic if the connection is made from a mobile network to a fixed telephone network or to another mobile network, or from a fixed telephone network to another fixed telephone network in the same telecommunications area, unless the connection has been dialled using an identifier or pre-selection.
- (3) A telecommunications operator shall specify a separate price for the charges collected from another telecommunications operator for the use of the telephone network to form a connection, where this connection is from the telephone network of another telecommunications operator to the telecommunications operator's own telephone network (*incoming traffic*).
- (4) However, it is not necessary to specify a separate price for incoming traffic if the connection is made from a fixed telephone network to a mobile network, unless the connection has been dialled using an identifier or pre-selection. (47/2005)

**Section 44**  
**Prohibition on bulk discounts**

The charge collected for interconnection of telephone networks shall not be dependent on the amount of telecommunications transmitted.

**Section 45**  
**Collection of telecommunications fees**

- (1) A telecommunications operator that has entered into a subscriber connection agreement has an obligation to collect the payments of the telecommunications operator providing the communications service at a cost-oriented and non-discriminatory price or to supply to the operator the information necessary for fee collection, as determined by the operator providing the communications service. A reasonable transition period shall be reserved for the telecommunications operator that has entered into a subscriber connection agreement before the telecommunications operator providing the communications service begins collecting the fees.
- (2) Information on the subscriber number of the subscriber connection of the party liable to pay shall be transmitted during the period of telecommunication. If the transmission of the subscriber number is not technically possible, the telecommunications operator that has entered into the subscriber connection agreement has an obligation to supply

the information necessary for billing to another telecommunications operator or, if this is not possible, to collect the fees without a charge.

## **Chapter 6 Numbering**

### **Section 46 Telecommunications areas**

- (1) The division of Finland into telecommunications areas is decided by the Finnish Communications Regulatory Authority.
- (2) The division into telecommunications areas shall be appropriate. In establishing telecommunications areas, special attention shall be paid to the amount of telecommunications in different localities and its orientation, the technical structure of communications networks and the most efficient use of numbers.

### **Section 47 Finnish Communications Regulatory Authority numbering orders**

- (1) In allocating telecommunications numbers and identifiers the aim shall be a clear and efficient numbering taking into account international obligations regarding numbering and identifiers.
- (2) The Finnish Communications Regulatory Authority may issue further orders on numbering. The regulations of the Finnish Communications Regulatory Authority shall specify the type of numbers and identifiers that may be used in telecommunications and the purpose for which they are to be used. A Finnish Communications Regulatory Authority order on numbering may also specify the geographical area of use for the numbers and identifiers.
- (3) Separate provisions shall be issued on Internet domain names.

### **Section 48 Numbering decisions**

- (1) The numbers and identifiers to be issued for the use of telecommunications operators and other persons are decided by the Finnish Communications Regulatory Authority.
- (2) Numbers and identifiers shall be distributed in a manner that treats telecommunications operators and other persons as fairly as possible taking into account the nature and extent of operations.
- (3) The Finnish Communications Regulatory Authority shall decide on the issuing of a number or identifier (*numbering decision*) within three weeks of receipt of an application. However, if a number or identifier is of exceptional economic value, the numbering decision may be made within six weeks of receipt of the application.
- (4) In a numbering decision, the holder of the right to use a number or identifier may be required to start using the number within a reasonable time.
- (5) A numbering decision may remain in force until further notice or for a fixed period appropriate to the service being provided. In a numbering decision, the Finnish

Communications Regulatory Authority may order that the number be used to offer a specified service and it may impose other conditions on the use of the number necessary to ensure the clarity and efficiency of numbering or the benefits of users.

#### **Section 49 Numbering fee**

A telecommunications operator and any other person obtaining a number or identifier shall pay the Finnish Communications Regulatory Authority a fixed fee to cover the costs incurred for the use of the number or identifier, numbering management and supervision, the amount of which is determined according to the proportion of the available addressing range that is taken by the number in use. Further provisions on the amount of the fee shall be issued by decree of the Ministry of Transport and Communications.

#### **Section 50 Revocation of right to use a number or identifier**

- (1) By decision, the Finnish Communications Regulatory Authority may revoke the right to use a number or identifier if:
- 1) the holder of the right to use the number or identifier does not pay the fee for the numbering decision;
  - 2) the use of the number or identifier is against the numbering decision;
  - 3) the number or identifier is not taken into use within a reasonable time after the numbering decision or its use has been discontinued; or
- the holder of the right to use the number or identifier does not rectify his conduct within a one-month deadline in spite of being requested to do so.
- (2) The right to use a number or an identifier may also be revoked for another similar, very weighty reason relating to the clarity and efficiency of numbering or to the interests of the users, if the holder of the right to use the number or identifier has been given a chance to present his view on the matter within a one-month deadline. A consultation is not necessary, if the operator holding the access rights has discontinued its operations or the holder of the access rights has ceased to exist due to some other reason. (26/2006)

#### **Section 51 Obligations concerning telephone number portability**

- (1) A telecommunications operator in a telephone network shall ensure without delay that a user who has entered into a subscriber connection agreement with it may, if he or she wishes, retain his or her telephone number when changing his or her fixed-connection telecommunications operator in the same telecommunications area or his or her mobile-connection telecommunications operator.

- (2) A telecommunications operator shall not charge a user for the transfer of a telephone number to another telecommunications operator. A telecommunications operator may, however, collect from the other telecommunications operator a one-off payment equivalent to the costs of transferring the telephone number referred to in subsection 1 if the technical process of transferring the number generates one-off costs. The one-off payment shall not, however, be so high as to deter the use of the service. In individual cases the Finnish Communications Regulatory Authority may decide on a maximum amount of the one-off payment.
- (3) The telephone number portability obligation referred to in subsection 1 does not apply to the telecommunications operator when the user changes his subscriber connection from a fixed telephone network to a mobile network subscriber connection or from a mobile network to a fixed telephone network subscriber connection.
- (4) The telecommunications operator that originally relinquished the transferred number and the telecommunications operator that received the number are each responsible for meeting half of any per-call costs incurred from transfer of the number.
- (5) A telecommunications operator in a telephone network shall, for its part, ensure that users have access to a public, comprehensive and charge-free information service giving information on transferred telephone numbers.

## **Section 52**

### **Technical provisions on telephone number portability**

- (1) The Finnish Communications Regulatory Authority may issue technical orders on telephone number portability.
- (2) Orders issued by the Finnish Communications Regulatory Authority may relate to:
  - 1) telephone numbers that for technical reasons are exempted from the portability obligation;
  - 2) technical implementation of portability;
  - 3) routing calls to a transferred number;
  - 4) organization of an information service on transferred telephone numbers;
  - 5) other similar technical requirements for number portability.

## **Section 53**

### **Telecommunications in the European Economic Area**

- (1) A telecommunications operator in a telephone network shall, for its part, ensure that calls can also be made from States in the European Economic Area to any non-geographic number in use in Finland wherever this is technically and economically possible.

- (2) The obligation referred to in subsection 1 does not apply to a telecommunications operator if the receiver of a call has restricted incoming calls from certain geographical areas for commercial reasons.
- (3) The Finnish Communications Regulatory Authority may issue further orders on technical measures necessary to meet the obligation referred to in subsection 1.

#### **Section 54** **Universal international access code**

- (1) A telecommunications operator in a telephone network shall, for its part, ensure that users are able to make international calls using the universal international access code 00.
- (2) The Finnish Communications Regulatory Authority may issue further orders on technical measures necessary to meet the obligation referred to in subsection 1.

#### **Section 55** **Universal emergency call number**

- (1) A telecommunications operator in a telephone network shall, for its part, ensure that users are able to access the universal emergency call number 112 free of charge.
- (2) The Finnish Communications Regulatory Authority may issue further orders on technical measures necessary to meet the obligation referred to in subsection 1.

#### **Section 56** **Publicly available directory inquiry service**

- (1) A telecommunications operator in a telephone network shall, for its part, ensure that users have access to a generally available, comprehensive and reasonably priced directory inquiry service.
- (2) In handling directory information, an operator providing a directory inquiry service shall not favour one telecommunications operator over another or otherwise act in a discriminatory manner.
- (3) The Finnish Communications Regulatory Authority may issue further orders on technical measures necessary to meet the obligation referred to in subsection 1.

#### **Section 57** **Providing a telephone directory service**

- (1) A telecommunications operator with which a user has made an agreement on the use of a subscriber connection for a fixed telephone network or a mobile network shall ensure that the contact information on the user's name, address and telephone number is collected and published in a generally available, comprehensive and reasonably priced telephone directory that is updated at least once a year. The telephone directory may be in printed or electronic form.

- (2) In handling contact information, an operator providing a telephone directory service shall not favour one telecommunications operator over another or otherwise act in a discriminatory manner.
- (3) Separate provisions shall be issued on the right of a user to forbid the publication of his or her contact information in a telephone directory.

**Section 58**  
**Releasing contact information**

- (1) A telecommunications operator and any company with which it has an agreement on maintaining the contact information referred to in section 57 shall release, on request, the contact information referred to in section 57 above in useable form to another company for the purposes of preparing a telephone directory or providing a directory inquiry service. The contact information shall be released at a cost-oriented price and on non-discriminatory terms.
- (2) A telecommunications operator and company with which it has an agreement on maintaining the contact information shall publish information on the price charged for releasing contact information.
- (3) Separate provisions shall be issued on the right of a user to forbid the release of his contact information.

**Section 58 a**  
**(Section 58 a has been repealed by the Act of 2 February 2007.)**

**Chapter 6 a (70/2007)**  
**Provisions on universal service**

**Section 59 (70/2007)**  
**Assigning a universal service operator**

- (1) The Finnish Communications Regulatory Authority shall assign one or more telecommunications operators, operators providing a directory inquiry service or operators providing a telephone directory service as a universal service operator if this is necessary in order to ensure universal service provision in a certain geographic area.
- (2) The assignment procedure shall be efficient, unbiased, open and non-discriminatory. An operator with the best possible prerequisites to provide universal service that meets the requirements referred to in section 1 of this Act shall be assigned as the universal service operator.
- (3) The Finnish Communications Regulatory Authority shall amend a decision referred to in subsection 1 if there are significant changes in matters on which the decision is based.

**Section 60 (70/2007)**  
**Monitoring of universal service prices**

The Finnish Communications Regulatory Authority shall monitor the universal service operators' pricing of universal service and compare it to the price level of other communications services.

**Section 60 a (70/2007)**  
**Net costs of universal service**

- (1) Net costs of universal service mean the costs incurred in service provision that the universal service operator cannot cover through income from the service.
- (2) If it is evident that the provision of universal service constitutes an unreasonable financial encumbrance to the universal service operator and if the operator so requests, the Finnish Communications Regulatory Authority must calculate the net costs of universal service.
- (3) In calculating the net costs of universal service, the Finnish Communications Regulatory Authority is not bound by the information given by the universal service operator or by the cost calculation principles of the operator.

**Section 60 b (70/2007)**  
**Cost reimbursement to the universal service operator**

- (1) The part of the net costs constituting an unreasonable financial encumbrance with regard to the size of the operator, type of business activities, turnover of the operator's telecommunications, directory inquiry service, and telephone directory service, or other similar elements shall be compensated to the universal service operator from state funds, if the operator so requests.
- (2) The compensation for costs referred to above in subsection 1 is decided by the Ministry of Transport and Communications on the basis of a net cost calculation by the Finnish Communications Regulatory Authority.
- (3) Retroactive compensation is awarded for a maximum period of one year from the presentation of a claim.

**Section 60 c (70/2007)**  
**Universal service obligation concerning the provision of universal telephone services**

- (1) A telecommunications operator that the Finnish Communications Regulatory Authority has assigned as a universal service operator in universal telephone services as referred to in section 59 shall provide, at a reasonable price and regardless of the geographical location, a subscriber connection to the public communications network at the user's permanent place of residence or location. The telecommunications operator shall supply a subscriber connection within a reasonable time after an order.
- (2) The subscriber connection to be provided shall allow outgoing emergency calls, outgoing and incoming national and international calls and use of other ordinary

telephone services. The subscriber connection shall also allow an appropriate Internet connection. A telecommunications operator may also provide the services mentioned above through several subscriber connections if this does not cause unreasonable additional costs to the user.

- (3) A universal service operator has the right to refuse to enter into an agreement for a subscriber connection referred to in subsection 1 with a user that is being prosecuted or has been sentenced in the past year for disrupting communications using a telecommunications operator's subscriber connection or has outstanding, matured indisputable debts incurred from the use of another telecommunications operator's subscriber connection.

## **Chapter 7 Rights of the user**

### **Section 61 (759/2006) Deposit, security and spending limit**

- (1) A telecommunications operator may require from a consumer a deposit or security for a telephone network subscriber connection agreement only when entering into the agreement and only for special reasons such as foreseeable insolvency or some other comparable circumstance. The deposit or security may not exceed the total amount of payments expected to accrue for the services provided before the telecommunications operator can bar the use of a subscriber connection due to neglected payments.
- (2) While a telecommunications operator and a consumer are in a contractual relationship they may agree on setting a reasonable spending limit in euros for the subscriber connection.

### **Section 62 User's right to select a telephone service provider**

- (1) A telecommunications operator in a fixed telephone network which the Finnish Communications Regulatory Authority has defined under section 17 as an operator with significant market power has an obligation to offer the user the possibility to access the services of a telephone service provider available in the telecommunications area via both an access code per call and pre-selection that may be bypassed with an access code, if necessary. The telecommunications operator may charge the user a one-off sum equivalent to the costs of pre-selection. The one-off payment shall not, however, be so high as to deter the use of the service. In individual cases the Finnish Communications Regulatory Authority may decide on a maximum amount of the one-off payment.
- (2) If the consumer wishes to bar access to a telephone service, the telecommunications operator may only provide him with a call-barring service that is equitable with regard to competing telecommunications operators.
- (3) By a decision under section 18, the Finnish Communications Regulatory Authority may impose the obligation referred to in subsection 1 in respect of international calls on an operator with significant market power operating in a mobile network.

- (4) The Finnish Communications Regulatory Authority may issue further orders on technical measures necessary to fulfil the obligation referred to in subsections 1 and 3.

### **Section 63**

#### **User's right to parallel use of a subscriber connection**

- (1) A user has the right to connect terminal equipment to more than one subscriber connection at the same time.
- (2) The Finnish Communications Regulatory Authority may issue further orders on technical measures required for the right referred to in subsection 1.

### **Section 64**

#### **User's right to tone dialling and calling line identification**

A telecommunications operator in a telephone network has an obligation to provide a user with tone dialling and a service with which the call recipient can see the calling number before answering the call.

### **Section 65**

#### **Obligation of telecommunications operator to transmit calls in the European telephone numbering space**

- (1) A telecommunications operator in a telephone network has an obligation, for compensation, to transmit all calls made to the European telephone numbering space defined in a universal standard.
- (2) The Finnish Communications Regulatory Authority may issue further orders on technical measures necessary to meet the obligation referred to in subsection 1.

### **Section 66**

#### **Agreement terms and tariff information (759/2006)**

- (1) A telecommunications operator has an obligation to draw up standard agreement terms for consumer agreements on telephone network subscriber connections and to use them when making agreements with consumers. The agreements shall not include any terms or limitations unfair to the consumer. (759/2006)
- (2) A telecommunications operator shall publish standard agreement terms, including those referred to in subsection 1, and tariff information on communications services and to ensure that they are easily available to users without charge. (759/2006)
- (3) A telecommunications operator shall notify the Consumer Ombudsman and the Finnish Communications Regulatory Authority of the standard agreement terms and tariff information.

**Section 67**  
**Communications services agreement (759/2006)**

- (1) Agreements on telephone network subscriber connections and any other communications service agreements shall be made in writing. The agreement can also be made electronically, provided that the content of the electronic agreement cannot be amended without the consent of the other party and that the agreement remains available to both parties. (759/2006)
- (2) The agreement shall specify the name and contact information of the telecommunications operator. (759/2006)
- (3) The agreement shall specify at least the following:
  - 1) the validity of the agreement;
  - 2) the nature and features of the services and the types of maintenance service provided;
  - 3) the delivery time of a communications service;
  - 4) the procedure for giving notice to terminate the agreement and the reasons for termination;
  - 5) the sanctions for any error or delay;
  - 6) how the user is informed of amendments to the agreement terms;
  - 7) the user's rights if the agreement terms are amended;
  - 8) pricing basis or applied tariffs;
  - 9) the user's right to obtain information on the calculation of his bill;
  - 10) the user's right to complain about a telecommunications bill;
  - 11) the sanctions for neglect of payment;
  - 12) the right of the telecommunications operator to terminate the provision of a service or to restrict the use of a service.
  - 13) the spending limit referred to above in section 61(2) and consumer instructions on how to monitor the amount due on the bill. (759/2006)
- (4) In addition, the agreement shall state the right of the consumer to refer a dispute on the agreement for the decision of the Consumer Complaint Board.
- (5) Section 5 has been repealed by the Act of 1 September 2006.

### **Section 67 a (759/2006)**

#### **A delay in the delivery of a communications service and the right to refrain from paying**

- (1) Delivery of a subscriber connection is deemed delayed, if the service has not been delivered at agreed time for reasons that are not attributable to the user. When the delivery time has not been agreed upon, the delivery is delayed if the communications service has not been delivered within reasonable time after the service agreement has been reached.
- (2) The user is obliged to make payments for the communications service only after the connection has been made available to the user. After the connection is available the user has the right to refrain from paying amounts of the payment that are necessary to ensure compensation for the delay.

### **Section 67 b (759/2006)**

#### **Standard compensation for a delay in the delivery**

- (1) In a case referred to in section 67 a the user has the right to a standard compensation. The minimum amount of the compensation is 15 euros for each full or part week of delay but not more than 120 euros.
- (2) The right to a standard compensation does not, however, apply, if the telecommunications operator proves that the delay is due to an obstacle out of its reach which it cannot reasonably be expected to have considered when entering into the agreement, and the consequences of which could not have been avoided or overcome within reasonable limits.
- (3) If the delay is due to a person who has been of help to the telecommunications operator in filling in the agreement or part of the agreement, the telecommunications operator is discharged from liability only if the person in question was also free of liability in accordance with subsection 2.

### **Section 67 c (759/2006)**

#### **Liability for damages for a delay in the delivery**

- (1) The user is entitled to a compensation for damages caused by a delay if the damages exceed the amount of standard compensation referred to in section 67 b. The right to a compensation does not, however, apply if the user does not have the right to a standard compensation in accordance with section 67 b(2) or 67 b(3).
- (2) A telecommunications operator is liable for consequential damages caused by a delay only if the delay or damage has been caused by negligence on the part of the telecommunications operator. A consequential damage is:
  - 1) loss of income for the user caused by the delay or by measures resulting from the delay;
  - 2) damages caused by obligations of another agreement;

3) significant loss in the operating efficiency of a communications service that does not cause direct financial loss, and a comparable substantial inconvenience.

**Section 67 d (759/2006)**  
**Defect in the delivery of a communications service**

Delivery of a communications service is defective if the quality or mode of delivery of the communications service does not correspond to what can be deemed to have been agreed. Unless otherwise agreed, the delivery of a communications service is defective, if:

- 1) the quality of the communications service does not meet the requirements of law or the Finnish Communications Regulatory Authority regulation issued by virtue of law;
- 2) the delivery of the communications service has been continuously or repeatedly interrupted for a reason other than that referred to in section 72 and the interruption cannot be deemed insignificant considering the reason and circumstances; or
- 3) the communications service does not meet the marketing information or differs from what the user can normally expect from a similar service.

**Section 67 e (759/2006)**  
**Remedying a defect**

- (1) The user has the right to demand that the telecommunications operator remedy a defect or redeliver a defective performance without any charge to the consumer. The telecommunications operator is not, however, obliged to remedy a defect if this would cause unreasonable costs or discomfort to the operator.
- (2) Even if the user did not require that the defect or defective performance be rectified, the telecommunications operator may, at its own expense, do this if it offers to do so immediately after the user has notified the operator of the defect. The user may refuse rectification of the defect if it would cause considerable inconvenience or involve a threat of uncompensated costs to the user, or for another special reason.
- (3) The telecommunications operator shall not invoke the fact that it did not have a chance to rectify the defect if the user has had the defect rectified and if, considering the circumstances, it cannot reasonably be expected that the user would have waited for the telecommunications operator's rectification.

**Section 67 f (759/2006)**  
**Reduction of price and standard compensation**

- (1) If the defect or defective delivery cannot be rectified or if such a rectification has not been made within reasonable time after the user has notified of the defect, the user has the right to a price reduction proportionate to the defect.
- (2) If a defect is based on an interrupted delivery referred to in section 67 c, the user has the right to a standard compensation. The minimum amount of the standard compensation is 15 euros for each full or part week of delay but not more than 120

euros. If a standard compensation is paid to the user, the user has no right to a price reduction referred to in subsection 1 because of the same interruption.

**Section 67 g (759/2006)**  
**Liability for damages due to a defect**

- (1) The user has the right to a compensation for damages suffered from a defect in the communications service.
- (2) A telecommunications operator is liable for consequential damages referred to above in section 67 c(2) only if the delay or damage has been caused by negligence on the part of the telecommunications operator.

**Section 67 h (759/2006)**  
**Terminating an agreement due to a defect or delay**

The user may terminate a communications agreement due to a defect or delay by the telecommunications operator, if the breach of agreement is considerable.

**Section 67 i (759/2006)**  
**Obligation to notify a defect or delay**

- (1) The user shall not plead to a delay, if he or she does not notify the telecommunications operator of the delay within a reasonable time after the service has been delivered. The user shall not argue a defect if he or she does not notify the telecommunications operator of the defect within a reasonable time after he or she has or should have discovered the defect.
- (2) Notwithstanding subsection 1 the user may argue a defect or delay if the telecommunications operator has been grossly negligent or dishonourable and unworthy or if the communications service does not conform to the requirements of law or a Finnish Communications Regulatory Authority regulation issued by virtue of law.

**Section 68**  
**User's right to select a content service provider**

The terms of an agreement on a telephone network subscriber connection and any other agreement on receiving a communications service may not restrict the user's right to choose a content service provider.

**Section 69**  
**Right to connect terminal equipment or a communications network to a public communications network**

- (1) A telecommunications operator shall not prevent a user from connecting to a public communications network any radio or telecommunications terminal equipment that conforms to the requirements of the Radio Act or any decoding equipment or television receiver that meets the requirements of this Act.

- (2) A telecommunications operator shall not prevent a user from connecting to a public communications network any communications network meeting the requirements of this Act that is internal to a property or building.
- (3) A telecommunications operator shall not require that the interconnection of a communications network internal to a property or building with a public communications network be performed only by a person selected by the telecommunications operator.
- (4) A user shall not connect to a public communications network any radio or telecommunications terminal equipment that is not in working order and does not conform to the requirements of the Radio Act.

### **Section 70 (26/2006)**

#### **Tie-in sales**

- (1) The price of GSM mobile network terminal equipment or a related item shall not depend on whether the user also acquires a GSM mobile network subscriber connection from the seller (tie-in sales).
- (2) Tie-in sales are allowed when entering into an agreement on a telephone network subscriber connection of another network than that referred to in subsection 1. The telecommunications operator shall provide the user with a similar communications service also without the terminal equipment.
- (3) Marketing material shall provide the information referred to in chapter 2(4) of the Consumer Protection Act (38/1978) and the total amount of additional costs to be incurred to the consumer for tie-in sales.
- (4) In connection with tie-in sales a telecommunications operator may enter into an agreement with the consumer on a telephone network subscriber connection for a maximum period of two years. The consumer has the right to terminate a time-limited subscriber connection agreement as of two weeks from giving a notice of the termination, if he or she has financial difficulties due to a sickness, unemployment, or some other special reason mostly of no fault of his or her own.
- (5) The terms of a time-limited subscriber connection shall not be changed during the agreement period to the detriment of the consumer. The terms can, however, be changed because of legislative amendments or decisions of government authorities.
- (6) A telecommunications operator may bar the use of another operator's subscriber connection in a mobile phone offered in tie-in sales. At the request of the consumer the barring shall be removed without charge when the subscriber connection agreement ends, but no later than two years after concluding the agreement.
- (7) Section 70 as amended for a fixed period of time by the Act of 20 January 2006 will remain in force from 1 April 2006 through 1 April 2009. The previous wording of the section was as follows:

**Section 70**  
**Prohibition on tie-in sales**

The price of mobile network terminal equipment or a related item shall not be dependent on whether the user also acquires a mobile network subscriber connection from the seller.

**Section 71 (759/2006)**  
**Amending an agreement**

- (1) The telecommunications operator may amend the terms, including payments, in the communications service agreement to the detriment of the consumer only:
  - 1) on grounds specified in the agreement terms, assuming that the content of the agreement does not essentially change as a whole;
  - 2) on the basis of a change in legislation or a decision by the authorities;
  - 3) for any other special reason due to an important change in circumstances.
- (2) A telecommunications operator also has the right to make minor amendments to the agreement terms, provided they have no effect on the main content of the agreement.
- (3) The user has the right to terminate, with immediate effect, a communications service agreement, if a telecommunications operator gives notification that it is amending the agreement terms.
- (4) A telecommunications operator shall notify the user of any changes in the agreement terms no later than one month before the amended terms enter into force.

**Section 72**  
**Communications network construction and maintenance work and measures related to information security (759/2006)**

- (1) A telecommunications operator may temporarily interrupt or restrict the use of a telephone network subscriber connection without the consent of the user if this is necessary for network construction or maintenance work or for information security. Any interruption shall be made in a way that causes as little inconvenience to the user as possible and it shall be announced well in advance wherever possible. (759/2006)
- (2) If a subscriber connection is closed for more than 48 hours in a calendar month for reasons referred to in subsection 1, the telecommunications operator shall refund the user, on request, the service rate for one month or pay an equivalent reasonable refund. (759/2006)
- (3) The refund obligation referred to above in subsection 2 does not, however, apply if the fault is caused by:

- 1) a natural phenomenon or other force majeure, and the telecommunications operator also demonstrates that using reasonable measures it has not been able to repair the fault within 48 hours;
- 2) neglect on the part of the user or another person that has used the subscriber connection; or
- 3) the poor operating condition of terminal equipment or the wiring in the premises.

### **Section 73**

#### **Closure of a subscriber connection or restriction on its use for reasons attributable to the user**

- (1) A telecommunications operator has the right to restrict the use of a telephone network subscriber connection or to close it if the user has not paid a matured payment for that subscriber connection. (759/2006)
- (2) The closure right does not apply, however, if:
  - 1) the matured payment is less than 50 euros;
  - 2) the matured payment is for receipt of a service other than a communications service;
  - 3) the matured payment is paid within two weeks of the date on which the request for payment is sent;
  - 4) the consumer proves that the neglect to pay is due to illness, unemployment or other comparable reason beyond his control, and the matured payment is paid within one month from the date on which a request for payment is sent;
  - 5) the user submits a complaint about the bill before the due date and pays the undisputed part of the bill by the due date.
- (3) A telecommunications operator also has the right to close a subscriber connection or restrict its use if:
  - 1) the user is declared bankrupt or a public authority has found him or her to be otherwise insolvent and the user does not set a reasonable security;
  - 2) the user does not comply with the other agreement terms, despite a request to do so; or
  - 3) the user has been charged with a disruption of communications using a subscriber connection.
- (4) A telecommunications operator also has the right to restrict the use of a subscriber connection if the user exceeds the spending limit referred to in section 61(2). The telecommunications operator shall inform the user in advance of restricting the use and shall instruct the user on how to prevent the restriction. (759/2006)

**Section 74**  
**Reopening a closed subscriber connection**

- (1) On the request of the user, the telecommunications operator shall reopen a telephone network subscriber connection closed under section 73 or remove a restriction on use as soon as the restriction on the use or closure of the subscriber connection is no longer justified.
- (2) The telecommunications operator has the right to charge a reasonable fee for reopening a subscriber connection or for removing a restriction on the use of a subscriber connection. The operator shall not, however, charge for removing a restriction on use referred to in section 73(3). (759/2006)

**Section 75**  
**Cancellation and giving notice of termination of a subscriber connection agreement**

- (1) A telecommunications operator has the right to cancel an agreement on a telephone network subscriber connection if:
  - 1) the subscriber connection has been closed under section 73 for at least one month and the reasons for closure still apply; or
  - 2) the user has been sentenced for disrupting communications using a subscriber connection.
- (2) A telecommunications operator shall cancel an agreement on a telephone network subscriber connection in writing. The telecommunications operator shall warn the user in advance of the cancellation of the subscriber connection agreement.
- (3) The user may give notice of termination of a subscriber connection agreement orally. The user has the right to give notice of termination of a subscriber connection agreement that is valid until further notice to terminate two weeks from the notice. The telecommunications operator shall send the user a written confirmation of the termination notice.

**Section 76**  
**Obligation of a telecommunications operator to close a subscriber connection**

A telecommunications operator shall close a subscriber connection or prevent the use of a telephone without delay if the user of the subscriber connection, the police, an insurance company or another telecommunications operator reports that a mobile telephone or a smart card used in managing a mobile telephone has been lost and requests that the subscriber connection be closed or the use of the telephone prevented.

### **Section 77**

#### **Obligation of a telecommunications operator to restrict the use of a subscriber connection**

A telecommunications operator with a telephone network subscriber connection used by another telecommunications operator to provide a communications service or which collects fees on behalf of another telecommunications operator shall bar the use of the other telecommunications operator's communications service, on request, if:

the requirements under section 73 are met; and

the telecommunications operator requesting the barring is not itself able to bar the use of its communications service.

### **Section 78**

#### **Right of a telecommunications operator to restrict the use of a subscriber connection for receiving another service**

A telecommunications operator has the right to bar the use of a service other than a communications service if the user does not pay a matured bill for the other service within two weeks of the date on which the request for payment was sent.

### **Section 79**

#### **User's right to restrict the use of a subscriber connection**

- (1) On the request of the user, the telecommunications operator shall, without compensation, bar the use of a subscriber connection for purposes other than a communications service and any outgoing traffic of a specific type from the subscriber connection if the barring is technically easy to implement. If the barring is later removed on the request of the user, the telecommunications operator may charge a fee for doing so.
- (2) The Finnish Communications Regulatory Authority may issue further orders on the minimum call-barring categories for outgoing traffic from the subscriber connection that shall be provided to the user, as well as orders on the technical implementation of call-barring services.

### **Section 79 a (759/2006)**

#### **Unlawful use of a communications service**

- (1) The consumer can be held responsible for unlawful use of a communications service only if the unlawful use is due to the consumer's more than slight negligence.
- (2) The consumer shall not be held responsible for unlawful use of a communications service insofar as the communications service has been used after the consumer has notified the telecommunications operator that the subscriber connection or any other means used in administering the communications service has disappeared or that it is unlawfully in the possession of another party.
- (3) A telecommunications operator has the right to close a communications service immediately after having received a notification referred to in subsection 2. Provisions

on a telecommunications operator's obligation to close a mobile telephone subscriber connection and to bar the use of a mobile phone are laid down in section 76.

### **Section 80** **Itemization in a telecommunications bill**

- (1) A telecommunications operator shall, without charge, provide itemized bills on the use of the telephone network subscriber connection and, provided that the bill is more than 50 euros, without being separately requested to do so. The bill shall without difficulty indicate at least the following billing items:
  - 1) local calls and network charges collected for calls referred to in paragraphs 2-4;
  - 2) long-distance calls;
  - 3) international calls;
  - 4) mobile network calls;
  - 5) subscriber connection rates;
  - 6) text messages, picture messages and other messages;
  - 7) data transfer services.
- (2) Irrespective of the amount of the bill, the telecommunications operator shall itemize the fees for services other than communications services without being requested to do so and without charge.
- (3) Calls to freephone numbers shall not be indicated in an itemized bill.
- (4) The user has the right to obtain a non-itemized bill on request.

### **Section 81** **Providing information on changes in numbering**

A telecommunications operator shall in an efficient manner and in good time provide users with information on changes in numbering affecting the telephone network. Users shall be given information on any changes to their telephone numbers no less than six months before the change enters into force.

### **Section 82 (26/2006)** **Obligation to publish information on service quality**

- (1) By decision, the Finnish Communications Regulatory Authority may impose an obligation on a telecommunications operator to publish comparable and up-to-date data on the quality of the services it offers.
- (2) The decision shall specify the data to be published and the publishing method. The data to be published may, among other things, concern the delivery time of a

subscriber connection, the number of faults per subscriber connection, the fault repair time, the call set-up time, the response time of a directory inquiry service and correctness of invoicing.

### **Section 83** **Application of the Consumer Protection Act**

- (1) The legal relationship between the consumer and the telecommunications operator is also covered by the Consumer Protection Act (38/1978).
- (2) Telecommunications operators' use of the agreement terms are monitored by the Finnish Communications Regulatory Authority. The use of the agreement terms with regard to consumer protection is also monitored by the Consumer Ombudsman. The Finnish Communications Regulatory Authority and the Consumer Ombudsman shall work together where appropriate. (759/2006)

### **Section 83 a (70/2007)** **Imperative nature of the provisions**

The provisions of this chapter shall not be derogated from by agreements to the detriment of the consumer. Sections 67 a-67 i, 71-75, 78, 79, 79 a and 80 of this chapter apply to other than consumer agreements only if not agreed otherwise.

## **Chapter 8** **Pricing and supervision of pricing**

### **Section 84** **Requirement of cost-orientation and non-discrimination**

- (1) A cost-oriented price means a price that is reasonable taking into account the costs incurred and the efficiency of the operation. In assessing reasonableness, regard shall also be had to a reasonable return on capital, which is affected by the investment of the telecommunications operator and related risks.
- (2) Non-discrimination means a requirement that telecommunications operators in similar situations be treated equally. If a telecommunications operator uses a certain service itself or provides it to a subsidiary or other similar party, it shall also offer an equivalent service on equivalent terms to any competing telecommunications operator.

### **Section 85** **Deposit and security**

A telecommunications operator may demand a reasonable deposit or security from another telecommunications operator for relinquishing access rights or for charges paid for interconnection.

**Section 86**  
**Pricing clarification obligation and cost accounting**

- (1) If, under this Act or in a decision of the Finnish Communications Regulatory Authority, a cost-orientation or non-discriminatory pricing obligation has been imposed on a telecommunications operator or an operator referred to in section 58, the telecommunications operator or the operator referred to in section 58 has an obligation to prove that the price charged for its product or service is cost-oriented and non-discriminatory when a pricing matter is being handled by the Finnish Communications Regulatory Authority.
- (2) In assessing the cost-orientation of pricing, the Finnish Communications Regulatory Authority is not bound to the cost calculation principles used by the telecommunications operator.
- (3) In assessing the cost-orientation of pricing in accordance with section 84(1), the Finnish Communications Regulatory Authority may, in an individual case, decide on the maximum price to be charged. (47/2005)

**Section 87**  
**Cost-accounting procedures**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on an operator with significant market power to use cost-accounting procedures if this is necessary in order to supervise pricing in a wholesale or retail market.
- (2) A telecommunications operator may itself select the cost-accounting procedures it uses. The telecommunications operator shall draw up for the Finnish Communications Regulatory Authority a description of the cost-accounting procedures that show at least the main cost categories and the rules by which the costs are allocated.
- (3) The Finnish Communications Regulatory Authority may issue further orders on data gathered by means of the cost-accounting procedures or on the description of the system. The orders may cover:
  - 1) data essential for indicating the link between the cost-accounting procedures and pricing;
  - 2) content and form of the description of the cost-accounting procedures;
  - 3) delivery of the description of the cost-accounting procedures to the Finnish Communications Regulatory Authority. (70/2007)

**Section 88 (70/2007)**  
**Supervision of the cost-accounting procedures**

- (1) A telecommunications operator shall decide on an approved and independent auditor referred to in the Auditing Act (936/1994) to inspect the cost-accounting procedures of the telecommunications operator in conjunction with the operator's auditing

process. The auditor shall draw up a report on the inspection. The telecommunications operator shall submit the report to the Finnish Communications Regulatory Authority by the end of August following the end of the operator's financial period.

- (2) The Finnish Communications Regulatory Authority may issue further orders on the type of data and material that needs to be included in the auditor's report. The orders may cover:
  - 1) general information about the telecommunications operator to be audited, and the auditing method;
  - 2) material that shall be audited;
  - 3) criteria for determining whether the telecommunications operator meets the obligations imposed on its activities;
  - 4) attachments to the auditor's report;
- (3) The Finnish Communications Regulatory Authority shall publish an annual report on how telecommunications operators have complied with the cost-accounting procedures.

### **Section 89** **Accounting separation obligation**

- (1) By a decision under section 18, the Finnish Communications Regulatory Authority may impose an obligation on an operator with significant market power to separate in its accounts the functions that concern leasing out of access rights and interconnection from the other service provision activities of the telecommunications operator, where necessary in order to monitor pricing in regard to leasing out of access rights and interconnection.
- (2) In its decision, the Finnish Communications Regulatory Authority shall itemize the information to be clarified by means of the accounting separation procedures and the main features of the procedures. The accounting separation obligation shall be reasonable in view of the size and type of operation of the telecommunications operator.
- (3) The accounting separation calculations shall be submitted to the Finnish Communications Regulatory Authority.
- (4) The telecommunications operator's auditors shall inspect the accounting separation calculations and give a separate opinion on them to the telecommunications operator.

## **Chapter 9**

### **Obligations of a telecommunications operator to assist a public authority**

#### **Section 90**

##### **Obligation of a telecommunications operator to prepare for exceptional circumstances**

By means of contingency planning and preparations for exceptional circumstances, a telecommunications operator shall ensure that its activities will continue with the minimum disruption even in the exceptional circumstances referred to in the Emergency Powers Act (1080/1991) and in disruptive situations under normal circumstances.

#### **Section 91**

##### **Priority functions and priority subscriber connections**

- (1) Priority function means a feature incorporated into a telephone exchange and the associated switchboard and into a key telephone system with which telecommunications at a specific fixed telephone network subscriber connection may be given priority over telecommunications from other subscriber connections or numbers. A priority function may be used only in the exceptional circumstances referred to in the Emergency Powers Act and in disruptive situations under normal circumstances.
- (2) Communications networks shall be equipped with a priority function.
- (3) Telecommunications operators shall not provide priority subscriber connections to the general public.
- (4) The Ministry of Transport and Communications shall confirm the user groups whose subscriber connections are given the priority referred to in subsection 1.
- (5) Provisions on the use of a priority function in exceptional circumstances referred to in the Emergency Powers Act shall be given by Government decree. Use of a priority function in disruptive situations under normal circumstances shall be decided by the Finnish Communications Regulatory Authority. (26/2006)

#### **Section 92**

##### **Emergency switching**

- (1) Emergency switching means a system in which telecommunications in a fixed telephone network using non-priority subscriber connections may be temporarily barred in order to secure priority traffic.
- (2) Provisions on the use of emergency switching in the exceptional circumstances referred to in the Emergency Powers Act shall be given by Government decree. Use of emergency switching in disruptive situations under normal circumstances shall be decided by the Finnish Communications Regulatory Authority.
- (3) Telephone exchanges shall be equipped with emergency switching.

**Section 93**  
**Further provisions on contingency preparations**

- (1) Further provisions on the contingency preparation obligation of a telecommunications operator under section 90 may be given by Government decree. The provisions may concern the necessary communications network arrangements to ensure the functioning of the nation's leadership or national security or the economy.
- (2) The Ministry of Transport and Communications may issue instructions on the contingency preparation obligation of telecommunications operators and instructions on general contingency planning.
- (3) The Finnish Communications Regulatory Authority may issue further technical orders on the telecommunications operator's contingency preparation obligation. The orders may cover:
  - 1) technical characteristics of the priority function and emergency switching;
  - 2) connection of priority functions and emergency switching to a telephone exchange;
  - 3) documentation on securing the operation and services of a telecommunications operator in exceptional circumstances;
  - 4) technical measures to minimize the damaging effects of information security infringements;
  - 5) use of frequencies; and
  - 6) other similar technical issues.

**Section 94**  
**Costs of contingency preparations**

- (1) A telecommunications operator has the right to receive a compensation for costs incurred in contingency preparation from the national emergency supply fund referred to in the Security of Supply Act (1390/1992) only if the costs are significant with regard to the nature and extent of the activities of the telecommunications operator or if the costs are incurred from maintenance of the information system on priority subscribers and from technical items ordered at the request of the Ministry of Transport and Communications.
- (2) The compensation for costs referred to above in subsection 1 is decided by the National Emergency Supply Agency on the proposal of the Ministry of Transport and Communications.

### **Section 95 (152/2004)**

#### **Obligation of a telecommunications operator to equip its systems for telecommunications interception and monitoring**

A telecommunications operator shall equip its communications network and communications service with technical instruments and features that allow the interception of electronic communications and telecommunications monitoring as referred to in the Coercive Criminal Investigation Means Act (450/1987), the Police Act (493/1995), and the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union.

### **Section 96**

#### **Technical requirements for interception of the content of communications and of intercept-related information**

- (1) A public authority performing interception of the content of communications or of intercept-related information shall submit to the Finnish Communications Regulatory Authority a proposal on the operational requirements that the communications network and communications services have to meet.
- (2) In individual cases the Finnish Communications Regulatory Authority shall decide on the technical requirements imposed on an instrument or feature used in interception of the content of communications or of intercept-related information after consulting the telecommunications operator and the public authority referred to in subsection 1.
- (3) The telecommunications operator shall make every effort to ensure that the technical instruments and features are installed in the communications network or communications service before the introduction of the communications network or communications service.

### **Section 97**

#### **Obligation to supply information free of charge on the activities of a public authority**

A telecommunications operator shall without charge supply a public authority with any information in its possession necessary for the public authority to discharge duties prescribed to it by law for maintaining public order and security and rescue activities as provided for separately.

### **Section 98**

#### **Costs incurred in assisting public authorities**

- (1) A public authority shall implement at its own expense a system with which it may receive and handle the information referred to in section 97. The public authority shall also be responsible for the costs of connecting the system to a communications network.
- (2) A telecommunications operator's right to receive a compensation from State funds applies only to the direct costs of the investment, use and maintenance of systems, equipment and software acquired to meet the needs notified by a public authority. The telecommunications operator's right to receive compensation from State funds also

covers the direct costs incurred from any measures ordered by a public authority. Decisions on the compensation for costs incurred are made by the Finnish Communications Regulatory Authority.

- (3) A telecommunications operator shall not use any systems, equipment or software funded by a public authority for its commercial activities.

### **Section 99**

#### **Special provisions on public authority networks**

- (1) The provisions of chapters 3-5, 7 and 8 and section 51 of this Act do not apply to a public authority network.
- (2) The Ministry of Transport and Communications shall decide on the user groups that have the right to use a public authority network.
- (3) A telecommunications operator shall connect a public authority network to a public communications network on request and without charge. A telecommunications operator in a public authority network is not entitled to receive a compensation for any telecommunications from a public communications network to a public authority network. A telecommunications operator in a public communications network has the right to receive a compensation for telecommunications from a public authority network to a public communications network according to the tariffs of the telecommunications operator.

### **Chapter 10**

#### **Installation of telecommunications cables**

### **Section 100**

#### **Right to install a telecommunications cable**

- (1) Provisions on the right of a telecommunications operator to install a telecommunications cable serving a community or property in an area owned or controlled by another are given in the Land Use and Building Act (132/1999).
- (2) Provisions on the right of a telecommunications operator to install a telecommunications cable and related equipment, minor structures or poles in an area owned or controlled by another may also be based on the decision of the municipal building supervision authority referred to in the Land Use and Building Act as provided in this Act.

### **Section 101**

#### **General aims in installing a telecommunications cable**

- (1) Wherever possible, a telecommunications cable shall be installed in a highway area referred to in the Public Roads Act (243/1954) or in a public area referred to in the Act on Real Estate Formation (554/1995).
- (2) In installing a telecommunications cable, regard shall be had to existing zoning and other land-use planning and to landscape and environmental considerations.

- (3) The installation and maintenance of a telecommunications cable shall not cause hindrance or damage that could be avoided at reasonable expense.

### **Section 102 Cable route plan**

- (1) If the parties do not reach an agreement on the installation of a telecommunications cable in an area owned or controlled by another, the telecommunications operator shall draw up a plan for installing the telecommunications cable (cable route plan).
- (2) A cable route plan shall include the following documents:
- 1) a map showing the location of telecommunications cables and related structures;
  - 2) a map drawn up by village or urban districts showing the property in the area;
  - 3) a document showing the construction method and construction timetable for the telecommunications cables and related structures and equipment;
  - 4) a construction plan showing how the route of the cable is to be marked in the ground.

### **Section 103 Publishing a cable route plan**

- (1) The telecommunications operator shall put the cable route plan on public view. The telecommunications operator shall also publish a notice about the cable route plan in a newspaper widely circulated in the locality. The notice shall mention the property affected by the plan. The notice shall also mention that the property owners and anyone whose benefit or right is affected by the plan have the right to file an objection to the cable route plan by a certain date.
- (2) The cable route plan shall be sent by normal post to all property owners and other persons whose benefits or rights are affected by the plan.

### **Section 104 Opinion on a cable route plan**

A telecommunications operator shall acquire an opinion on the cable route plan from the municipal authorities and the regional environment centre and, where necessary, from other competent authorities.

### **Section 105 Objections**

A property owner or other party whose benefit or right is affected by the cable route plan has the right to file an objection with the telecommunications operator within 30 days of the publication of the cable route plan in the manner referred to in section 103.

**Section 106**  
**Decision by the building supervision authority**

- (1) A telecommunications cable and related equipment, minor structures and poles may be installed in an area owned or controlled by another if agreement is reached on the installation. If no agreement is reached on the installation and if the installation cannot otherwise be organized satisfactorily and at reasonable cost, the municipal building supervision authority may, by decision following an application by the telecommunications operator, grant this right to the telecommunications operator if the cable route plan meets the general aims under section 102.
- (2) The cable route plan can be confirmed, if the telecommunications operator has followed a procedure referred to in sections 103 and 104. If an objection has been filed to the cable route plan, confirmation is contingent to requirements of section 101.
- (3) The municipal building supervision authority may at the same time order that a decision be complied with before it has become final. If a complaint has been filed against the decision, the appellate authority may prohibit the decision from being put into effect until the complaint has been resolved.
- (4) An appeal may be filed against a building supervision authority decision made under subsection 2 to the Administrative Court as provided for in section 190 of the Land Use and Building Act.

**Section 107**  
**Right to undertake construction work in an area belonging to another**

- (1) If it is necessary for the implementation of a cable route plan, a telecommunications operator with a right based on a decision under section 106 (2) may, without the permission of the owner or holder, fell trees and remove other plants from the cable route plan area, affix necessary equipment to buildings and structures and undertake other construction work in the area. For this purpose, anyone in the service of the telecommunications operator has the right to access a private area and affix the necessary markings on the ground.
- (2) In non-urgent cases, the telecommunications operator shall reserve an opportunity for the owner and holder of the area to carry out the measures referred to in subsection 1 him or herself.
- (3) A telecommunications operator shall restore the condition of the area after the work is completed.

**Section 108**  
**Compensation for hindrance and damage**

- (1) The right to receive full compensation for any hindrance and damage caused by measures referred to in section 107 lies with the property owner and holder, the municipality as owner and holder of a public area, and the State as the owner and holder of a public highway area.

- (2) The compensation claim shall be submitted to the telecommunications operator within one year of the hindrance or damage. Unless agreement is reached on the compensation, the matter shall be resolved in the order prescribed in the Act on Redemption of Immovable Property and Special Rights (603/1977).

### **Section 109**

#### **Compensation to be paid under the Act on Redemption of Immovable Property and Special Rights**

If more extensive rights to other's assets than those referred to in section 107 are needed in installing and maintaining telecommunications cables, the matter shall be resolved in accordance with the Act on Redemption of Immovable Property and Special Rights.

### **Section 110**

#### **Supervision of telecommunications cable installation**

- (1) Each municipality shall supervise that the installation of telecommunications cables within its boundaries complies with the aims referred to in section 101.
- (2) Where necessary, the municipality shall coordinate the installation of different telecommunications operators' telecommunications cables to ensure that the aims referred to in section 101 are also achieved when construction and maintenance work for more than one telecommunications operator's telecommunications cables is conducted within boundaries of the municipality.

### **Section 111**

#### **Work that presents a risk of damaging telecommunications cables**

- (1) Before starting any excavation work, forest work, hydraulic engineering or other work that might endanger telecommunications cables, the party carrying out the work shall establish whether there are any telecommunications cables in the work area in order to avoid damage.
- (2) The telecommunications operator shall provide information on the location of telecommunications cables free of charge.
- (3) The telecommunications operator shall supply the party carrying out the work with the necessary information and instructions to avoid danger.

## **Chapter 11**

### **Supplying and publishing information and the obligation to consult**

#### **Section 112**

##### **Supplying information to a public authority**

- (1) On the request of the Ministry of Transport and Communications or the Finnish Communications Regulatory Authority, a telecommunications operator shall be obliged to collect and, notwithstanding business and professional secrecy, supply to the Ministry of Transport and Communications and the Finnish Communications

Regulatory Authority any information necessary for the guidance and supervision of telecommunications. The information shall be supplied without delay, in the form requested by the public authority and without charge.

- (2) The obligation to collect and supply information referred to above in subsection 1 also applies to other companies in possession of information that is essential and significant for telecommunications and the official duties referred to in this Act.
- (3) On the request of the operator or company, the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority shall notify the purpose for which the information is to be used and justify the request to supply the information.

### **Section 113**

#### **Supplying confidential documents to the Finnish Competition Authority**

Further to the provisions of the Act on the Openness of Government Activities (621/1999), the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority have the right to supply the Finnish Competition Authority with confidential documents that they have received or drawn up in the course of discharging the duties prescribed in this Act if this is necessary for managing the duties of the Finnish Competition Authority.

### **Section 114**

#### **Use of a document obtained from a public authority of another State**

The Ministry of Transport and Communications or the Finnish Communications Regulatory Authority may use a confidential document that has been obtained from a foreign public authority only for the purpose for which it was given.

### **Section 115**

#### **Supplying information to the Commission and to other EEA States**

- (1) The Ministry of Transport and Communications and the Finnish Communications Regulatory Authority have an obligation to supply any information necessary for communications market supervision on the request of the Commission or the regulatory authority of another EEA State.
- (2) Further to the provisions of the Act on the Openness of Government Activities, the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority have the right to supply a confidential document and to disclose confidential information to the Commission or the telecommunications regulatory authorities of another EEA State if this is necessary for communications market supervision.

### **Section 116**

#### **Confidentiality of information between telecommunications operators**

- (1) A telecommunications operator may use information on another telecommunications operator obtained in connection with the relinquishing of access rights under chapter 4

or interconnection under chapter 5 of this Act only for the purpose for which it was given. Information may only be handled by those persons in the service of the telecommunications operator who necessarily need the information in the course of their work. Information shall also otherwise be handled in such a way that the business secrets of another telecommunications operator are not endangered.

- (2) A telecommunications operator that causes damage to another telecommunications operator by acting contrary to subsection 1 has an obligation to compensate any damage caused by the action.

### **Section 117**

#### **Publication duty of the Finnish Communications Regulatory Authority and the Government**

- (1) The Finnish Communications Regulatory Authority shall publish decisions referred to in chapters 3-5 and 8 of this Act, decisions on the division into telecommunications areas, numbering decisions and decisions on disputes between telecommunications operators in a way that ensures that they are available to telecommunications operators and user groups.
- (2) The Government shall publish licence application announcements and licence decisions in the manner referred to in subsection 1.

### **Section 118**

#### **Obligation to consult**

- (1) Parties representing telecommunications operators and users shall be reserved an opportunity to present their views on licence application announcements, decisions on telecommunications areas and numbering decisions that significantly affect the communications market before the application announcement is published or the decision issued.
- (2) The licence-holder and parties representing telecommunications operators and users shall be reserved an opportunity within one month to present their views on any amendment to the licence terms or the cancellation of a licence.
- (3) If a decision of the Finnish Communications Regulatory Authority under chapters 3-5 and 8 has a significant effect on the communications market, the Finnish Communications Regulatory Authority shall reserve parties representing telecommunications operators and users an opportunity to present their views on the proposed decision.
- (4) Other provisions on consultation obligations regarding public authorities are issued in the Administrative Procedure Act (434/2003). (26/2006)

## **Chapter 12**

### **Supervision, sanctions and resolution of disputes**

#### **Section 119**

##### **General guidance, development and supervision**

- (1) General telecommunications guidance and development are the responsibility of the Ministry of Transport and Communications.
- (2) The Finnish Communications Regulatory Authority supervises compliance with this Act and provisions issued under it.
- (3) The Government shall ensure that activities relating to the regulation of telecommunications operators and to Government ownership or decision-making power are separated from each other in a structurally efficient manner.
- (4) The Ministry of Transport and Communications is assisted by the Communications Administration Advisory Board. The Advisory Board monitors the activities of communications administration, prepares initiatives for developing communications administration and issues opinions. The Communications Administration Advisory Board has a chairperson, deputy chairperson and no more than 16 members, who are appointed by the Ministry of Transport and Communications for three years at a time. Each member is also appointed a personal deputy. The Advisory Board shall include representatives of the Ministry of Transport and Communications, operators in the sector and the main user groups. The Advisory Board convenes at the invitation of the chairperson or deputy chairperson. The Advisory Board is in other respects governed by the provisions on committees.

#### **Section 120**

##### **Cooperation between the competition authorities and consumer authorities**

In discharging duties under this Act, the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority shall work in cooperation with the competition authorities and the consumer authorities wherever necessary.

#### **Section 121**

##### **Conditional fines and temporary orders**

- (1) If someone violates this Act or provisions issued under it, and, despite being requested to do so, fails to rectify his actions within a reasonable period of at least one month, the Finnish Communications Regulatory Authority may order him to rectify the error or omission. A conditional fine or a threat of terminating the operations or of having the act done at the defaulter's expense may be imposed as sanctions in support of the obligation.
- (2) The provisions on conditional fines, threat of termination and threat of completion laid down in the Act on Conditionally Imposed Fines (1113/1990) shall apply.
- (3) If the error or omission causes serious hindrance to the market or the functioning of a communications network, the Finnish Communications Regulatory Authority may

decide on necessary temporary action without waiting for the expiry of the deadline referred to in subsection 1. An appeal may be made separately against such a decision in the same manner as against a decision of the Finnish Communications Regulatory Authority referred to in subsection 1.

**Section 121 a (759/2006)**  
**Prohibiting an unfair term of agreement**

- (1) The Finnish Communications Regulatory Authority may prohibit from continuing the application of an agreement term in breach of section 66 or from renewing the application of such, or a similar, term, where this is necessary in order to protect the end-user. The Finnish Communications Regulatory Authority may also impose a temporary prohibition, which remains in force until a final decision has been reached in the case.
- (2) The Finnish Communications Regulatory Authority may impose a conditional fine in support of the prohibition. A judgement to pay the conditional fine is issued by the Market Court.
- (3) A decision of the Finnish Communications Regulatory Authority referred to in subsection 1 or 2 shall not be subject to an appeal.
- (4) A telecommunications operator may refer a prohibition decision for the Market Court within 30 days following a notification of the decision of the Finnish Communications Regulatory Authority. Otherwise the decision remains in force.

**Section 122**  
**Penalty payment**

- (1) A telecommunications operator that acts in violation of an obligation imposed under sections 18-20 of this Act and, despite being requested to do so, fails to rectify its actions within a reasonable period of at least three months may be ordered to pay a penalty. A penalty shall not be ordered if the action has no significant effect on the market or if the ordering of the penalty is otherwise manifestly unjustified with regard to the safeguarding of competition.
- (2) An order to pay a penalty need not be made if the telecommunications operator has been or will be ordered to pay a penalty for breach of competition for a corresponding act or omission as referred to in the Act on Competition Restrictions (480/1992).
- (3) In determining a penalty, regard shall be had to the nature and extent of the action, its duration and any penalty imposed on the telecommunications operator for breach of competition for a similar act or omission under the Act on Competition Restrictions.
- (4) The minimum amount of the penalty is 1,000 euros and the maximum is one million euros. If the act or omission has especially significant effects on the market, the stated amount may be exceeded. The penalty may, however, be no more than five per cent of the turnover of the telecommunications operator for electronic communications networks and services in the previous year.

- (5) The penalty is determined by the Market Court on the proposal of the Finnish Communications Regulatory Authority. The provisions of the Act on the Market Court that pertain to the handling of matters under the Competition Restrictions Act are applied to the handling of a case in the Market Court. The Administrative Judicial Procedure Act (586/1996) otherwise applies to the handling and investigation of a case. Any penalty is ordered to be paid to the State.
- (6) Penalties are enforced without a judgement or decision complying with the provisions of the Act on the Recovery of Taxes and Fees by Recovery Proceedings (367/1961). Enforcement of penalties is attended to by the Legal Registers Centre. Further provisions on the enforcement of penalties may be given by Government decree. A Government decree may lay down provisions on the duty of authorities to notify, when this is significant for the enforcement of the penalty, on the refund of a penalty payment and on factors that are of importance to penalty enforcement.

### **Section 123 Prohibiting operations**

- (1) If, despite the consequences referred to in sections 121 and 122, a telecommunications operator seriously and significantly breaches or fails to comply with the provisions of this Act or orders issued under it, and does not rectify its conduct within a reasonable period of at least one month despite being requested to do so, the Finnish Communications Regulatory Authority may prohibit the telecommunications operator from engaging in telecommunications.
- (2) In cases referred to in subsection 1, the Finnish Communications Regulatory Authority may prohibit a telecommunications operator's activities in full or in part.
- (3) Provisions on the cancellation of a licence are laid down in section 12.

### **Section 124 The Finnish Communications Regulatory Authority's right of inspection**

- (1) The Finnish Communications Regulatory Authority has the right to perform a technical inspection of a telecommunications operator in order to supervise compliance with the obligations imposed in this Act and in provisions issued under it. A public authority network or a dedicated network as referred to in this Act may also be subject to a technical inspection.
- (2) The Finnish Communications Regulatory Authority has the right to perform a financial inspection of a telecommunications operator if the operator has not met its obligation referred to in section 112 or if the information supplied under section 112 is incomplete and there are special reasons to suspect that the operator is breaching the provisions of this Act or provisions issued under it in a significant manner.
- (3) In the inspections referred to in subsections 1 and 2, the Finnish Communications Regulatory Authority has the right to access the telecommunications operator's equipment facilities and other premises and to obtain for examination documents that are necessary for its supervision duty.

- (4) Inspections referred to in subsections 1 and 2 shall not be performed in premises covered by the provisions on domestic peace.

**Section 125**  
**Executive assistance**

In discharging its duties under this Act, the Finnish Communications Regulatory Authority has the right to obtain executive assistance from the police, the customs authorities and the Frontier Guard.

**Section 126**  
**Resolution of disputes by the Finnish Communications Regulatory Authority**

- (1) If a telecommunications operator or a person whose right or benefit is affected by the matter considers that someone is acting in violation of this Act and the provisions issued under it, the telecommunications operator or person may refer the matter for examination by the Finnish Communications Regulatory Authority. The Finnish Communications Regulatory Authority may also, on its own initiative, take up the matter for examination.
- (2) The Finnish Communications Regulatory Authority shall resolve a matter referred to in subsection 1 no later than four months from the date on which the matter becomes pending. The deadline does not apply to unusually extensive cases. The obligations imposed on the parties in connection with the decision shall comply with the provisions of this Act.
- (3) The Finnish Communications Regulatory Authority shall promote cooperation among telecommunications operators and aim at resolving disputes between telecommunications operators primarily through mediation.
- (4) If mediation does not produce results within four months and if one of the parties to the dispute so requests, the Finnish Communications Regulatory Authority shall make a decision on the matter within four months of the end of mediation.
- (5) Matters relating to a contractual relation between a telecommunications operator and an end-user, liability for damages, or a telecommunications operator's right of recourse do not fall within the authority of the Finnish Communications Regulatory Authority. (759/2006)

**Section 127 (759/2006)**  
**Appeal**

- (1) An appeal may be made against decisions of the Ministry of Transport and Communications and the Finnish Communications Regulatory Authority taken under provisions of this Act, provided that they do not refer to sections 16-20, 121 a, or 126, by appealing to the Administrative Court as laid down in the Administrative Judicial Procedure Act. A decision of the Ministry of Transport and Communications or the Finnish Communications Regulatory Authority shall be complied with despite any appeal unless the appellate authority orders otherwise.

- (2) The Finnish Communications Regulatory Authority has the right to appeal against an Administrative Court decision referred to in subsection 1 in which the Administrative Court has repealed or amended a decision of the Ministry of Transport and Communications or the Finnish Communications Regulatory Authority.
- (3) As provided in the Administrative Judicial Procedure Act, an appeal may be filed to the Supreme Administrative Court against a decision of the Finnish Communications Regulatory Authority made by virtue of sections 16-20 and 126 of this Act, against a government decision, and a decision of the Market Court. A government decision and a decision of the Finnish Communications Regulatory Authority shall be complied with despite any appeal, unless the appellate authority orders otherwise.
- (4) An appeal may be made against a decision of the Market Court referred to in section 121 a(4) as laid down in the Act on Certain Proceedings before the Market Court 1528(2001).
- (5) An appeal against a decision referred to above in subsections 1 and 3 shall be dealt with urgently.

#### **Section 127 a (119/2008)**

##### **Monitoring the European Communities Regulation on roaming**

The provisions of sections 119-121, 121 a and 123-127 also apply to the monitoring of compliance of the Regulation (EC) No 717/2007 of the European Parliament and of the Council on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC, and to penalties for infringements and resolution of disputes arising from the Regulation.

### **Chapter 13**

#### **General provisions on communications networks and communications services**

#### **Section 128**

##### **Quality requirements for communications networks and communications services**

- (1) Public communications networks and communications services and the communications networks and communications services connected to them shall be planned, built and maintained in such a manner that:
  - 1) the technical quality of telecommunications is of a high standard;
  - 2) the networks and services withstand normal, foreseeable climatic, mechanical, electromagnetic and other external interference;
  - 3) they function as reliably as possible even in the exceptional circumstances referred to in the Emergency Powers Act and in disruptive situations under normal circumstances;
  - 4) the protection of privacy, information security and other rights of users and other persons are not endangered;

- 5) the health and assets of users or other persons are not put at risk;
  - 6) the networks and services do not cause unreasonable electromagnetic or other interference;
  - 7) they function together and can, if necessary, be connected to another communications network;
  - 8) terminal equipment meeting the requirements of the Radio Act can, if necessary, be connected to them;
  - 9) they are, if necessary, compatible with a television receiver that meets the requirements of this Act;
  - 10) their debiting is reliable and accurate;
  - 11) access to emergency services is secured as reliably as possible even in the event of network disruptions;
  - 12) a telecommunications operator is also otherwise able to meet the obligations it has or those imposed under this Act.
- (2) A telecommunications operator shall immediately notify the Finnish Communications Regulatory Authority of a possible significant fault or disruption in the communications network or service. (518/2004)

### **Section 129**

#### **Orders on communications networks and communications services**

The Finnish Communications Regulatory Authority may issue orders on the quality requirements and interoperability of communications networks and communications services as referred to in section 128. The orders may cover:

electronic and physical protection of a communications network;

the structure of a communications network;

the performance capacity of a communications network and communications service;

interconnection, interoperability and signalling;

the technical characteristics of communications network termination points;

physical protection of the equipment facilities for a communications network;

the technical characteristics of a cable television network, antenna system and community aerial system;

digital communications network synchronization;

the technical characteristics of a local loop;

communications network security and minimizing interference;

the technical characteristics of a television network that receives wide-screen television services and wide-screen television programmes;

the content and structure of the opening page of an electronic programme guide;

procedures in the event of faults and interference;

the technical aspects of debiting;

services provided for users;

performance maintenance and monitoring and network management;

technical documentation;

power supply, priority rating, ensuring maintenance of integrity and redundancy routes;

routing and ensuring emergency traffic;

standards to be complied with;

other comparable technical requirements set for a communications network or communications service.

### **Section 130** **Provisions on dedicated networks**

- (1) The Finnish Communications Regulatory Authority may also issue orders on the technical characteristics of communications networks that are not connected to a public communications network (*dedicated network*) if this is necessary to ensure that communication is free from interference.
- (2) The provisions of section 131 apply to the obligation on the keeper of a dedicated network to take measures to eliminate interference.

### **Section 131** **Obligation to eliminate interference**

- (1) If a communications network or equipment item causes danger or interference to a communications network, equipment, communications network user or another person, the telecommunications operator or the keeper of another communications network or equipment shall take measures immediately to rectify the situation and, if necessary, isolate the communications network or equipment from the public communications network.

- (2) In a case referred to in subsection 1, the Finnish Communications Regulatory Authority may order rectification measures and isolation of the network or equipment.

### **Section 132**

#### **Technical regulations on television receivers and decoding systems**

- (1) The Finnish Communications Regulatory Authority has the right to issue orders on the technical characteristics of television receivers in order to ensure their interoperability.
- (2) The Finnish Communications Regulatory Authority has the right to issue orders on the technical characteristics of decoding systems in order to ensure their interoperability.

### **Section 133**

#### **Provisions on terminal equipment**

- (1) Provisions on radio and telecommunications terminal equipment intended for connection to a public communications network are laid down in the Radio Act.
- (2) A telecommunications operator shall publish up-to-date technical specifications on the public communications network interfaces to which the telecommunications terminal equipment may be connected. The specifications shall include sufficiently accurate information that may be used as a basis for manufacturing telecommunications terminal equipment and with which the services provided may be used via the interface.

## **Chapter 14**

### **Miscellaneous provisions**

#### **Section 134 (1329/2007)**

##### **Obligation to transmit programmes and services**

- (1) A telecommunications operator providing a network service in a cable television network has an obligation to transmit the following in the network without charge:
- 1) public service television and radio programmes that are receivable in the municipality in which the network is located, as referred to in section 7(1) of the Act on the Finnish Broadcasting Company Ltd (1380/1993), in terms of television and radio broadcasting in terrestrial mass communications networks referred to in section 2(7) of this Act;
  - 2) ancillary and supplementary services related to these programmes;
  - 3) freely receivable television and radio programmes that are provided in the municipality in which the network is located by virtue of a national programming licence under section 7(1) of the Act on Television and Radio Operations;
  - 4) freely receivable material supplied for a particular item in a programme referred to in subsection 3, advertisements included in the programmes and other similar services forming part of the programmes.

- (2) However, a telecommunications operator has no transmission obligation if the cable television network capacity is for the operator's use in its own television or radio operations or if it is necessary for this purpose in order to meet a reasonable future need of the operator. In fulfilling its transmission obligation, a telecommunications operator need not make any improvements in network capacity that would require significant financial investments.
- (3) The programmes and associated services referred to in subsection 1 shall be provided to users free of charge. However, a telecommunications operator providing a network service in a cable television network may require users to pay a reasonable fee for maintenance of the network.
- (4) The programmes and services referred to in subsection 1 above shall be provided to users unmodified and simultaneously with the original broadcast.
- (5) A community aerial system in a housing company or a real estate company, or a similar system that owns or manages a joint antenna network within a real estate or between real estates used for transmitting mass communications to users' terminals shall ensure that programmes and services referred to in section 1 are available to users at the real estate unmodified and simultaneously with the original broadcast.

### **Section 135**

#### **Obligation of holder of industrial property rights to a decoding system**

- (1) The holder of industrial property rights to a decoding system for use in a digital television or radio network shall use terms that are fair, reasonable and non-discriminatory when granting these rights to a company manufacturing decoding systems.
- (2) The holder of the industrial property rights shall not when granting these rights impose terms that would prevent the use of the decoding system with other equipment or systems or would hamper such use unless the terms are necessary for reasons of equipment safety or for other technical reasons.

### **Section 136 (1327/2007)**

#### **Obligations imposed on an operator that uses a decoding system**

- (1) An operator that uses a decoding system has an obligation to ensure that the decoding system does not prevent the distribution or reception of television or radio programmes or related ancillary and supplementary services of another operator in a digital television and radio network. The operator using a decoding system, wherever necessary, has an obligation to supply another operator with the technical services required for the aforementioned distribution at a cost-oriented and non-discriminatory price.
- (2) The obligations referred to in subsection 1 above do not apply, however, if the fulfilment of the obligation would be technically inappropriate or otherwise unreasonable for the operator.

- (3) An operator providing decoding systems shall separate the operation referred to in subsection 1 from its other activities.
- (4) An operator referred to in subsection 1 above has an obligation to ensure that communications network transmission monitoring is possible.

**Section 137**  
**Telecommunications contracting**  
**Section 137 a**

**Telecommunications contracting fee**

(Sections 137 and 137 a have been repealed by the Act of 21 December 2007.)

**Section 138**  
**Liability for damages**

- (1) A telecommunications operator that deliberately or through negligence violates the provisions of sections 18–20 of this Act is liable to compensate damage it has caused to another telecommunications operator.
- (2) Compensation for damage consists of compensation for costs, the price difference and other direct financial losses caused by the telecommunications operator's activities referred to in subsection 1.
- (3) The compensation can be adjusted if full liability for damages is considered an unreasonable burden with regard to the nature of the offence, the extent of damage, the circumstances of the parties and other factors.
- (4) The right to compensation expires if the action for damages is not brought within three years of the date on which the telecommunications operator received or should have received the information on the damages.
- (5) In handling the action for damages referred to in subsection 1, the court may request an opinion on the matter from the Finnish Communications Regulatory Authority.

**Section 138 a (26/2006)**

**Electronic notification of a decision of the Finnish Communications Regulatory Authority**

- (1) With the consent of the concerned party a notification of a decision of the Finnish Communications Regulatory Authority may be submitted by email. The decision is deemed to have been notified when the concerned party has sent a confirmation email to the Finnish Communications Regulatory Authority that the message has been read.
- (2) If a party to an administrative decision referred to in this Act has delivered the Finnish Communications Regulatory Authority contact data that are in essential parts insufficient or defective, or has failed to give all essential contact data and these data have not been corrected or complemented later, and, therefore, the decision can only be notified as a public notice referred to in section 62 of the Administrative Procedure Act, the Finnish Communications Regulatory Authority may also notify the decision

through a notification on its web site. A decision is deemed to have been notified one month after publishing the notification. The notification shall include the date of publishing and the date on which the decision will be deemed to have been notified.

- (3) The Finnish Communications Regulatory Authority shall otherwise comply with the provisions of the Act on Electronic Services and Communication in the Public Sector (13/2003).

### **Section 138 b (759/2006)**

#### **A telecommunications operator's right of recourse**

- (1) If by virtue of this Act a telecommunications operator becomes liable to a user for a defect or delay that is due to another telecommunications operator, the liable operator is entitled to compensation from the other operator unless this proves that the defect or delay is not due to its negligence.
- (2) A telecommunications operator has the right of recourse referred to in subsection 1, regardless of whether there is a contractual relationship between the telecommunications operators. Any term of a contract concluded before the damage occurred that limits the right of recourse is void.

## **Chapter 15**

### **Transitional provisions and entry into force**

#### **Section 139**

##### **Entry into force**

- (1) This Act enters into force on 25 July 2003. Section 134 of the Act, however, remains in force until 31 December 2007.
- (2) This Act repeals the Communications Market Act of 30 April 1997 (396/1997), as amended. The rights and obligations of telecommunications operators based on the repealed Communications Market Act remain in force, however, until the Finnish Communications Regulatory Authority has made its first market analysis under section 17 of this Act and consequently imposed on telecommunications operators the rights and obligations under this Act. Where necessary, the termination of a telecommunications operator's obligations based on the repealed Communications Market Act shall be confirmed by separate decision of the Finnish Communications Regulatory Authority.
- (3) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

#### **Section 140**

##### **Application of certain previous provisions**

- (1) Section 24 of the Decision of the Ministry of Transport and Communications on the Interconnection of Telecommunications Networks and Services of Telecommunications Operations (1393/1997), which regulates uncoded communications, shall apply until 31 December 2003.

- (2) The provisions in force at the time of the entry into force of this Act shall apply to the handling of an administrative matter pending at the time this Act enters into force.
- (3) The division into telecommunications areas in force at the time of the entry into force of this Act shall remain valid until amended under section 46 of this Act.

**Section 141**  
**Transitional provisions on network licence**

- (1) A licence valid at the time of the entry into force of this Act (*network licence*) shall be valid for the duration of the period granted in the licence. The provisions of section 12 of this Act on cancellation of licences shall apply to a network licence valid at the time of the entry into force of this Act.
- (2) An operator or another organization providing a network service referred to in section 4(2) of this Act in a public authority network in operation before the Act's entry into force shall apply for a network licence under section 4(2) of this Act within two months of the Act's entry into force. The network licence application shall include an account of the user groups of the public authority network in question. The user groups are approved by the Ministry of Transport and Communications if they meet the requirements referred to in section 2 of this Act.

**Section 142**  
**Transitional provisions on certain accounts and notifications**

- (1) An account of the user groups of a public authority network that is not referred to in section 4(2) of this Act shall be submitted to the Ministry of Transport and Communications within six months of the entry into force of this Act. The user groups are approved by the Ministry of Transport and Communications if they meet the requirements referred to in section 2 of this Act.
- (2) A telecommunications operator that made a telecommunications notification under the Communications Market Act valid at the time of the entry into force of this Act has an obligation to submit to the Finnish Communications Regulatory Authority a telecommunications notification under section 13 of this Act within two months of the Act's entry into force.
- (3) A telecommunications contractor with telecommunications contracting authorization under the Communications Market Act valid at the time of the entry into force of this Act is not obliged to submit to the Finnish Communications Regulatory Authority the notification referred to in section 137(2) of this Act.

**Section 143**  
**Application of provisions on penalties and supervision fees**

- (1) The provisions on penalties shall apply to an act or omission occurring after the Act's entry into force.

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### **Application and entry into force of amendment provisions**

27.6.2003/628:

- (1) This Act enters into force on 25 July 2003.
- (2) The communications market fee referred to in section 15 a and the telecommunications contracting fee referred to in section 137 a will be charged as of 1 January 2004.
- (3) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

20.2.2004/152:

This Act enters into force on 1 March 2004.

16.6.2004/518:

This Act enters into force on 1 September 2004.

28.1.2005/47:

This Act enters into force on 1 March 2005.

20.1.2006/26:

- (1) This Act enters into force on 1 April 2006.
- (2) Section 70 of the Act will, however, remain in force only three years after the entry into force of the Act.
- (3) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

1.9.2006/759:

- (1) This Act enters into force on 1 March 2007. Section 127 of the Act, however, enters into force on 15 September 2006.
- (2) This Act also applies to agreements concluded before the Act's entry into force. If there has been a defect in the communications service or a delay in the service before the entry into force of this Act, the Act in force at the time of the entry into force of this Act applies to the consequences of the defect or delay.
- (3) Section 79 is applied, if a communications service is used unlawfully after the entry into force of this Act.

2.2.2007/70:

This Act enters into force on 15 February 2007. The rights and obligations of telecommunications operators based on sections 59 and 60 in force at the time of the entry into force of this Act remain in force, however, until the Finnish

Communications Regulatory Authority has made its first assessment of the introduction of the assignment procedure referred to in section 59 of this Act.

21.12.2007/1327:

This Act enters into force on 1 January 2008.

21.12.2007/1329:

- (1) This Act enters into force on 1 January 2008.
- (2) Section 134(1)(3 and 4) of this Act will apply until 31 August 2010.
- (3) Measures necessary for the implementation of this Act may be undertaken before its entry into force.

29.2.2008/119:

This Act enters into force on 1 March 2008 and will remain in force until 30 June 2010.