

**Translation from Finnish**  
**Legally binding only in Finnish and Swedish**  
**Ministry of Transport and Communications**

**Act on Electronic Communications Services**  
*(917/2014; amendments up to 1207/2020 included)*

By decision of Parliament, the following is enacted:

**PART I**

**GENERAL PROVISIONS**

**Chapter 1**  
**Objectives of the Act and Definitions**

**Section 1**  
**Objectives of the Act**

The objective of the Act is to foster the provision and use of electronic communications services and to ensure that everyone across Finland has access to communications networks and services at reasonable conditions. A further objective of the Act is to secure the efficient and interference-free use of radio frequencies, to foster competition, and to ensure that communications networks and services are technologically advanced, of high quality, reliable, safe, and inexpensive. This Act also aims to ensure the confidentiality of electronic communication and the protection of privacy.

**Section 2 (1207/2020)**  
**Application of specific provisions**

The provisions of sections 136-145 and 247 apply to operators referred to in said provisions where:

- 1) the operator is established in the territory of Finland or otherwise subject to Finnish law;
- 2) the operator is not established in a Member State of the European Union but the operator's main equipment to be used in providing communications are located or maintained in Finland; or where
- 3) the operator is not established in a Member State of the European Union, but the service user is in Finland and it is evident from the contents of the service or its marketing that the service is targeted at Finland.

The provider of an online marketplace, search engine service and cloud service referred to below in section 247a is deemed to be under the jurisdiction of the Member State where its effective establishment is located. An entity referred to in said section who is not established in the European Union shall appoint a representative for the European Union territory. The representative shall be established in one of the Member States where the services are provided. The entity is deemed to be under the jurisdiction of the Member State where its representative is established.

This section does not limit the application of provisions in the Finnish private international law.

## Section 3 Definitions

For the purposes of this Act:

1) audiovisual programme means a movie, television programme, video clip, communication of an event to an audience, or other comparable unit comprised of primarily moving images and related sounds;

2) *audiovisual content service* means a service or a dissociable section of it the principal purpose of which is to provide television broadcasts or on-demand programme services in the course of trade and for which the audiovisual content service provider has editorial responsibility; (1207/2020)

2 a) *harmful interference* means interference which endangers the functioning of radio navigation or of other safety radio communications or which otherwise seriously degrades radio communications or radiodetermination operating in accordance with the applicable regulations or obstructs or repeatedly interrupts such operations; (456/2016)

2 b) *very high capacity network* means a communications network which consists wholly of optical fibre elements or which is capable of delivering under usual peak-time conditions similar network performance; the Body of the European Regulators for Electronic Communications (BEREC) issues guidelines on the criteria that a network is to fulfil in order to be considered a very high capacity network; (1207/2020)

3) *Internet access service* means a communications service providing access to the internet to enable access to services available on the Internet;

4) *mass communications network* means a communications network primarily used for transferring or transmitting television and radio programmes or other material conveyed in identical form to all recipients;

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

6) *fixed installation* means a combination of communications network devices that are installed in a predefined place for permanent use;

7) *user* means a natural person who as a subscriber or otherwise uses a communications service or an value-added service;

7 a) *user-generated video* means a set of mainly moving images and interconnected sound constituting an item that is created by a user and uploaded to a video-sharing platform by the user or another person; (1207/2020)

8) *associated service* means a conditional access system; electronic programme guide; number translation system; identity, location and presence service and similar service associated with communications networks or services that enables the provision of a communications network or service or supports the provision of services via them;

9) *associated facilities* mean an associated service and buildings, entries to buildings and building wiring, ducts, masts and other corresponding physical structures, facilities or elements associated

with a communications network or service that enable the provision of a communications network or service or support the provision of services via them;

10) *value-added service* means a service based on the processing of traffic data or location data for a purpose other than delivery of a communication;

10 a) *end-user* means a natural person or a legal person using or requesting a communications service or a value-added service, not providing public electronic communications networks or publicly available electronic communications services; (1207/2020)

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

11 a) *micro enterprise* means a micro enterprise referred to in Commission Recommendation concerning the definition of micro, small and medium-sized enterprises (2003/361/EC) and *small enterprise* means a small enterprise referred to in said Commission Recommendation; (1207/2020)

11 b) *number-independent interpersonal communications service* means an interpersonal communications service, which does not connect with a number or numbers in a national or international numbering plan; (1207/2020)

12) *programme* means a pre-selected composition of audiovisual or radio programmes;

12 a) *small-area wireless access point* means local area network equipment or mobile network equipment operating within a small range enabling broadband mobile connections or local area network connections; (1207/2020)

13) *amateur radio communication* means radio communication using amateur radio stations carried out among themselves by persons who have demonstrated adequate proficiency for the purpose of self-training, intercommunication or radio-technical experimentation and without seeking financial benefit;

14) *radio equipment* means equipment or its significant component designed to transmit (*radio transmitter*) or receive (*radio receiver*) electromagnetic radio waves for the purpose of radio communication or for some other purpose;

14 a) *air interface* means the specific definition of the regulated use of radio frequencies; (456/2016)

15) *radio frequency* means the frequency of an electromagnetic wave freely propagated in space and which is less than 3,000 GHz;

16) *radio broadcasting* means the simultaneous transmission of radio programmes intended for reception by the audience according to a programme schedule;

17) *radio communication* means communication by means of radio waves and radio determination, radio determination of the position, velocity or other characteristic of an object or the obtaining of information relating to these parameters by means of the propagation characteristics of radio waves; (456/2016)

- 18) *location data* means data which are available from a communications network or terminal device, show the geographic location of a subscriber connection or terminal device, and are used for a purpose other than the delivery of a communication;
- 19) *state of establishment* means any State where an information society service provider factually pursues an economic activity in a fixed establishment;
- 20) *sponsorship* means any financing or other economic support of audiovisual content services, audiovisual programmes, radio programmes or radio broadcasting with a view to promoting the product sales of the sponsor or its reputation, and the sponsor does not produce programmes or radio programmes nor does it provide content services or carry out radio broadcasting;
- 21) *protected name* or *trademark* means a name or trademark that has been entered into the trade register or into the registers of trademarks, associations, foundations, or political parties; or an established name, a secondary mark or trademark referred to in the Business Names Act (128/1979) or Trade Marks Act (544/2019); or a name of a public body, unincorporated state enterprise, independent public corporation, public association, or diplomatic mission of a foreign State or its body;
- 22) *electronic communication* means information that is transmitted or distributed electronically;
- 23) *telecommunications device* means radio equipment, telecommunications terminal equipment and communications network devices;
- 24) *teleshopping* means a television broadcast including sales or purchase offers;
- 25) *telecommunications terminal equipment* means equipment which, for the purpose of transmitting, processing or receiving messages, is designed to be joined by means of cabling and wiring, radio, optically or in some other electromagnetic manner, either directly to a subscriber connection in a public communications network or to function in conjunction with such a network by being directly or indirectly linked to a subscriber connection in a public communications network;
- 26) *television broadcasting* means the authentic and simultaneous transmission of programmes consisting of audiovisual programmes to the audience according to a programme schedule;
- 27) *telecommunications operator* means a network operator or a communications service operator offering services to a set of users that is not subject to any prior restriction, i.e., provides public telecommunications services;
- 27 a) *giving information in a permanent manner* means the giving of information personally in writing or electronically so that the receiver may store and reproduce it unchanged; (1207/2020)
- 28) *information security* means the administrative and technical measures taken to ensure that data are only accessible by those who are entitled to use it, that data can only be modified by those who are entitled to do so, and that data and information systems can be used by those who are entitled to use them;
- 29) *information society service* means services provided as electronic distance services usually requested by recipients against payment;

30) *subscriber* means a legal or natural person who is party to an agreement concerning the provision of a communications service or a value-added service for a purpose other than telecommunications operations;

31) *subscriber connection* means the part of a fixed communications network between the subscriber's connection and the devices that make it possible to route communication;

32) *on-demand programme service* means a service provided for the viewing of audiovisual programmes on the basis of a catalogue of programmes;

32 a) *wholesale undertaking* means an undertaking which by itself or any undertaking belonging to a group referred to in section 6 of the Accounting Act (1336/1997) or any undertaking over which the same ultimate owner is capable of exercising control referred to in section 5 of the Account Act does not carry out or does not plan to carry out operations in any retail markets. Nor may the undertaking be bound to deal with another undertaking that is active in the retail market because of an exclusive agreement or an agreement which de facto amounts to an exclusive agreement; (1207/2020)

33) *safety radio communication* means radio communication employed to safeguard and rescue human lives and property;

34) *network service* means a service where a telecommunications operator (*network operator*) provides a communications network in its ownership or for other reasons in its possession for the purposes of transmitting or distributing messages;

35) *domain name* means the address information in the form of a name used on the Internet under the country code top-level domain .fi or the region code top-level domain .ax consisting of letters, digits or other characters or their combination;

36) *communications provider* means a telecommunications operator, corporate subscriber or other party that conveys electronic communications for other than personal or comparable customary private purposes;

36a) *video-sharing platform service* means a service or a dissociable section of it, the principal purpose of which is to provide programmes or user-generated videos to the general public for which the video-sharing platform provider does not have editorial responsibility and the displaying, tagging and sequencing and other organisation of which is determined by the video-sharing platform provider by automatic means, algorithms or other means; (1207/2020)

36b) *video-sharing platform provider* means a natural or legal person who provides video-sharing platform service; (1207/2020)

37) *communications service* means a service consisting wholly or mainly of the conveyance of communications in a communications network, a transmission and broadcasting service in a mass communications network, and an interpersonal communications service; (1207/2020)

38) *communications network device* means a device intended for use in transmitting or routing communications in a communications network;

39) *communications network* means a system comprising interconnected wires and devices for the purpose of transmitting or distributing communications by wire, radio, optical or other electromagnetic means;

39a) *public authority network* means a communications network built for the needs of government measures and state security, national defence, public order and security, border security, rescue operations, maritime search and rescue operations, emergency response centre operations, immigration, health care and social welfare emergency services, rail transport safety or civil defence; (52/2019)

39b) *network service relating to public authority communications* means a service where a telecommunications operator (network operator) provides a communications network in its ownership or for other reasons in its possession for the purpose of delivering communications services relating to public authority communications to users referred to in section 250; (52/2019)

39c) *communications service provider relating to public authority communications* means a provider of the information and communication technological services of the time-critical broadband mobile communications of public authorities designated in section 8, subsection 2 of the Act on the Operation of the Government Security Network (10/2015)

40) *traffic data* means information that can be associated with a legal or natural person and is processed for the purpose of the conveyance of a communication as well as information on the call sign of a radio station and the user of the radio transmitter, and on the starting time, duration or transmission site of a radio transmission; (456/2016)

*Paragraph 40 was amended by Act 456/2016 and is in force in the temporarily amended form from 20 June 2016 to 20 June 2021. Previous form of wording:*

40) *traffic data* means information that can be associated with a legal or natural person and is processed for the purpose of the conveyance of a communication as well as information on the call sign of a radio station, on the type of radio transmitter or the user of the radio transmitter, and on the starting time, duration or transmission site of a radio transmission;

41) *corporate subscriber* means an undertaking and an entity which subscribes to a communications service or a value-added service and which processes users' communications, traffic data or location data in its communications network;

42) *public telephone service* means a communications service used to make and receive national and international calls using a number in a national or international numbering plan;

43) *public communications network* means a communications network used to provide communications services to a set of users that is not subject to any prior restriction.

43a) *mobile communications network using harmonised radio spectrum* means a mobile communications network using a frequency band for which harmonised conditions relating to its availability and efficient use have been established by way of technical implementing measures in accordance with Article 4 of the Decision No 676/2002/EC of the European Parliament and of the Council on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision), hereinafter *the Radio Spectrum Decision*. (1207/2020)  
*Trademarks Act 7/1964 was repealed by Trade Marks Act 544/2019.*

## **PART II**

### **TELECOMMUNICATIONS SUBJECT TO NOTIFICATION AND LICENCING**

#### **Chapter 2**

## Telecommunications subject to notification

### Section 4 (1207/2020)

#### A telecommunications operator's obligation to notify

Before commencing operations, a telecommunications operator shall submit an electronic notification to the Finnish Transport and Communications Agency (Traficom) of:

- 1) general telecommunications (*telecommunications notification*);
- 2) other than television broadcasting subject to a licence, if the service provider is established in Finland (*broadcasting notification*);
- 3) on-demand programme services, if the service provider is established in Finland (*notification of on-demand programme services*);
- 4) if the operator provides linear pay-television services in a terrestrial digital mass communications network using a protection decoding system (*pay-television service notification*); and of
- 5) video-sharing platform services if the service provider is established in Finland (*video-sharing platform service notification*).

The notification referred to above in subsection 1 need, however, not be submitted of operations that are short term or otherwise of minor significance or if the operations concern number-independent interpersonal communications service.

All identification and contact information of an enterprise, organisation or association necessary for the purposes of supervision, and a description of the operations, shall be given in a telecommunications notification referred to above in subsection 1. Traficom may issue further regulations on the information to be submitted and the form and delivery of the notification. Traficom shall be notified of any changes in the operations affecting the information given in a telecommunications notification and of discontinuation of operations.

If, for unforeseen reasons, a telecommunications operator or pay-television service provider can no longer offer the communications service or other service agreed on to the subscriber and does not follow the procedure for cancelling the agreement, the operator shall, without delay, or no later than two weeks prior to termination of the service notify the subscriber and Traficom of the termination of service. At the same time, the telecommunications operator shall notify the subscriber of the means available to save the subscriber's communications.

If termination of a communications service referred to in subsection 5 is caused by disconnection of a network service, the network operator under whose network the service provider operates shall notify the telecommunications operator providing the service and Traficom no later than four weeks before the disconnection of the network service.

### Section 4a (1207/2020)

#### Disclosure obligation of providers of audiovisual content services

A provider of audiovisual content services shall provide easy, immediate and continuous access to at least the following information for service recipients:

- 1) the service provider's name, geographical address in the state of establishment, email address or network address and such other contact information through which the service provider may be contacted quickly, directly and effectively;
- 2) information on the Member State under the jurisdiction of which the service provider belongs and information on the main regulatory authorities; and
- 3) information on the ownership structure of the service provider.

## **Section 5 (1003/2018)**

### **Notification register**

Traficom keeps a public register of notifications referred to in section 4.

Traficom shall provide confirmation of the receipt of a notification within a week. The confirmation notice shall indicate the rights and obligations related to the concerned operations in Finland under this Act.

Traficom conveys the telecommunications notifications it has received to BEREC. ([1207/2020](#))

## **Chapter 3**

### **Network licence**

## **Section 6 (52/2019)**

### **Operations subject to a network licence**

A network licence is required to provide a network service that uses radio frequencies in a digital terrestrial mass communications network or in a mobile network providing public telecommunications. The holder of a mobile network licence may under its licence also provide a network service relating to public authority communications or national roaming for public authority communications under the conditions laid down in chapter 29a.

A licence is required also to provide a mobile network operating as a public authority network within an area of more than one municipality and requiring radio frequencies.

By derogation from subsection 1 above, a licence is not required to provide a network service in a digital terrestrial mass communications network if:

- 1) the operations last no more than a month and the radiation power of the television transmitter used does not exceed 50 watts; or if
- 2) the television transmitter's radiation power is so low, considering the location where it will be used, that its operation will only extend to a limited area.

By derogation from the provisions of subsection 1, a network licence is not required to provide minor local network service in a mobile network providing public telecommunications services which operates within a restricted area if the network service is provided in a frequency band assigned for such use in the government decree issued under section 95, subsection 1. ([1207/2020](#))

## **Section 7 (1003/2018)**

### **Announcing that a licence is available for application**

The Government shall announce 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 in accordance with a frequency allocation plan approved in a decree laid down pursuant to section 95, subsection 3, paragraph 1.



A licence granted by Traficom is, however, not announced to be available for application.

## **7 a (1207/2020)**

### **Peer review process**

The Ministry of Transport and Communications shall notify the Radio Spectrum Policy Group of the European Commission of its intention to grant a licence for a mobile network using harmonised radio frequencies in accordance with the procedure referred to in section 8. The notification shall be submitted before announcing that a licence is available for application. The Ministry of Transport and Communications shall simultaneously notify whether it requests the Group to arrange a peer review process.

If a peer review process is arranged at the request of the Ministry of Transport and Communications or, by way of exception, on the initiative of the Radio Spectrum Policy Group, the Ministry of Transport and Communications shall justify how the granting of the licence referred to in subsection 1 would foster the general and spectrum policy objectives of the European Union. The Ministry of Transport and Communications may request an opinion of the Radio Spectrum Policy Group on its report.

## **Section 8**

### **Network licencing procedure**

The Government grants network licences for telecommunications operations in the meaning of section 6, subsection 1 and for public authority network operations in the meaning of section 6, subsection 2 free of charge as laid down in section 10.

If new frequencies that are technically appropriate and appropriate for efficient frequency use are added to public telecommunications in a mobile network, the Government may decide on granting a network licence by auction as laid down in section 11.

The Government may cooperate with the Member States of the European Union and the Radio Spectrum Policy Group of the European Commission when preparing the network licencing procedure. ([1207/2020](#))

## **Section 9 (1003/2018)**

### **Granting a network licence for temporary operation**

A licence to provide a network service in a digital terrestrial mass communications network is granted by Traficom if the operations last no more than three months and if the radiation power of the transmitter does not exceed two kilowatts.

Traficom shall grant the licence for operations referred to in subsection 1 if radio frequencies can be allocated for the operations and there are no reasonable grounds to suspect that the applicant violate the provisions of this Act.

Traficom may grant a new network licence for operations referred to in subsection 1 to the same operator for areas with even partially overlapping coverage at the earliest two months from expiry of the previous licence.

## **Section 10**

### **Issuing a network licence by comparative procedure**

A network licence shall be granted if:

- 1) the applicant has sufficient economic resources to meet the network operator obligations;
- 2) the licencing authority has no reasonable grounds to suspect that the applicant will violate the provisions of this Act; and if
- 3) the licencing authority does not have weighty reasons to suspect that granting of a licence to the applicant would apparently risk national security.

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.

If a licence referred to in subsection 1 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.

All information required by the licencing authority that is necessary to assess compliance with the licence requirements referred to in section 1 shall be given in a licence application.

A decision on a licence granted by the Government 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 11 (1207/2020)**

#### **Issuing network licences through an auction process**

The Government shall grant a licence referred to in section 8, subsection 2 to an enterprise, organisation or association that has made the highest valid bid for the frequency band or frequency pair in the auction, unless the licencing authority has especially weighty reasons to suspect that granting the licence to the applicant in question would apparently risk national security.

The auction is arranged by Traficom. The auction shall be unbiased, clear, open, non-discriminatory and technology and service neutral.

Provisions regarding the number of frequency bands and frequency pairs to be granted, the maximum number of frequencies to be allocated to an enterprise and organisation, the auction model to be used and the starting bids for the frequencies to be auctioned shall be given by government decree.

Traficom announces the auction concluded after a bidding round during which no new bids have been placed for any frequency pair or frequency band.

### **Section 12 (1207/2020)**

#### **Further regulations on the auction process**

Traficom may issue further regulations on the procedure to be applied in the auction. The regulations may cover:

- 1) registration for auction and deadlines;
- 2) placing of bids;
- 3) raising of bids;
- 4) switching of bids between frequency pairs and frequency bands in a way that will not lower the value of placed bids due to the switching;
- 5) definitions of eligibility in each bidding round;
- 6) determination of the winning bid;
- 7) discontinuance or cancellation of the auction due to force majeure or other technical reason;
- 8) other similar rules and technical arrangements of the auction.

### **Section 13 (1003/2018)** **Participation in the auction**

An undertaking and an entity wishing to participate in the auction shall inform Traficom in advance of its participation and pay a participation fee laid down in section 286.

Only one undertaking of a group referred to in chapter 1, section 6 of the Accounting Act (1336/1997) is allowed to participate in the auction.

No cooperation concerning the auction is allowed between parties participating in the auction.

Prohibited collusion is considered to include:

- 1) agreements concerning the contents of the bids;
- 2) exchange of information concerning the contents of the bids during the auction process; and
- 3) any other contact between the applicants with the aim to affect the process and result of the auction.

### **Section 14 (1003/2018)** **Openness of information in the auction process**

*Subsection 1 was repealed by Act 1207/2020.*

The winning bids are disclosed after the auction process has been concluded. Other bids made by an enterprise, organisation or association are confidential. During the auction, Traficom may issue information on the total amount in EUR of the bids placed on each round. The bidders are also provided with the information on the number of bids made for the frequencies and the amount of the highest bid in EUR.

In other respects, provisions on the openness of information are issued in the Act on the Openness of Government Activities (621/1999).

Notwithstanding secrecy provisions, Traficom shall, on request, disclose information referred to in subsections 1 and 2, obtained while carrying out the duties under this chapter and necessary for supervision and control, to the Ministry of Transport and Communications.

### **Section 15 (1003/2018)** **Rejection of auction bids**

If the effective control in the undertaking or entity changes before the licence is granted so that the undertaking or entity no longer meets the requirements for entering the auction laid down in section 13, Traficom shall reject the bid made by the undertaking or entity.

Traficom may decide to reject a bid made by an undertaking or entity, if the undertaking or entity has provided fundamentally incorrect information on matters significant to the auction or if it otherwise violates the provisions of chapter 3 or the regulations of Traficom relating to auctions and, despite requests, fails to immediately rectify its actions.

The Government may decide to reject a bid made by an enterprise, organisation or association, if it has especially weighty reasons to suspect that granting a licence to the applicant would apparently risk national security.

### **Section 16 (1207/2020)** **Network licence terms**

Network licences are granted by the Government for a fixed period of up to 20 years.

The Government grants network licences to mobile communications networks using a harmonised radio frequency spectrum for a period of at least 15 years. A network licence may be granted for a period shorter than this to:

- 1) a limited geographical area where high-speed wireless broadband networks are not available or their provision is limited;
- 2) a special short-term project;
- 3) the use of frequencies derogating from the coordinated use of the frequency band confirmed by the European Union; and
- 4) to ensure the simultaneous termination of the network licences in one or several frequency bands.

The geographical operating area of the telecommunications operator and the network coverage area may be defined in the licence.

The following terms may be incorporated into a licence:

- 1) requirements promoting the aims in section 1;
- 2) terms supplementing the requirements laid down in section 243 or the terms supplementing the technical regulations of Traficom referred to in section 244 concerning the technical characteristics of communications networks or the efficient use of frequencies;

3) terms 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;

4) terms on the broadcasting technology or encryption of broadcasts;

5) terms concerning the obligation of a licence holder to eliminate any interference caused by its operations to other radio communications complying with the regulations and to compensate for the costs incurred in the process of eliminating such interference;

6) terms concerning the network technical transmission speed in the propagation area.

The network licence terms may not prevent the sharing of radio frequencies.

A network licence for providing network service in a terrestrial mass communications network may be granted on condition that the licence holder ensures that the Finnish Broadcasting Company Ltd and a programming licence holder referred to in section 22 and in section 3, subsection 1 of the Provincial Act on Radio and Television Broadcasting Operations (Ålands författningssamling (2011:95), Åland Island Statute Book) obtain the necessary capacity for operating the activity.

With the licence terms referred to in this section, the Government shall ensure that the radio and television operators referred to in subsection 6 have access to the capacity necessary for the operations in all circumstances.

## **Section 17**

### **Amendment to the network licence**

A network licence may be amended during its validity period with the consent of the licence holder or otherwise if it is necessary for special reasons due to technical development, international treaty obligations, or an essential change in the operating conditions of an activity subject to a licence, change in market conditions or due to other essential changes.

The terms of an operating licence granted by the Government may be amended upon application by the licence holder. The Government shall, before issuing a decision, inform the licence holder of how re-examination conducted by the Government would influence the operating licence, and allow the licence holder a reasonable time limit to withdraw the application.

## **Section 17 a (1207/2020)**

### **Continuation of the validity of the network licence**

At the latest two years before the expiry of the period of validity of the network licence provided in section 16, subsection 1 or 2, the Government decides whether the period of validity of a network licence granted to a mobile communications network using a harmonised radio frequency spectrum can be continued.

The Government shall continue the period of validity of a network licence with at least five years provided that:

1) cancellation of a network licence provided in section 19 is not pending in the Government;

2) a supervision decision provided in chapter 42 or a coercive measure due to a neglect of the licence holder referred to in section 330 is not pending at Traficom; and that

3) the continuation of the network licence does not impair achievement of the objectives provided in section 1 or concerning public interest relating to safety of life, public order and safety and national defence.

### **Section 17 b (1207/2020)** **Renewal of a network licence**

The Government decides within a reasonable time or on request of a network licence holder and at the earliest 5 years before the expiry of the period of validity of the network licence provided in section 16, subsection 1 or 2, whether the network licence granted to a mobile communications network using a harmonised radio frequency spectrum can be renewed for a fixed period unless the renewal has been forbidden when granting the network licence.

### **Section 18 (1003/2018)** **Transfer of a network licence**

A network licence may only be transferred within a group of undertakings in the meaning of chapter 1, section 6 of the Accounting Act. Such a transfer shall be immediately notified to the Government licencing authority.

If the control in the meaning of chapter 1, section 5 of the Accounting Act or the effective control in respect of the licence holder changes, such a change shall be notified immediately to the licencing authority. The Government shall decide on whether to cancel the licence within two months of the notification.

The Government may decide not to cancel the licence if it is apparent that:

- 1) the requirements for granting a licence pursuant to section 10 have been met; and
- 2) operations continue according to the licence terms.

The licence holder may request the Government to inform in advance of the effect the change in the effective control will have on the licence. The Government shall issue a decision within two months of the application.

If the effective control changes as a result of a concentration, which in accordance with the Competition Act shall be notified to the Finnish Competition and Consumer Authority or the European Commission, hereinafter *the Commission*, in accordance with Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the EC Merger Regulation, hereinafter *the EC Merger Regulation*, the Government decision shall be issued within two months of the final decision on the matter relating to the concentration. [\(1207/2020\)](#)

The Government shall, at the request of the licence holder, transfer the network licence granted in accordance with the process laid down in section 11 if:

- 1) the Government does not have especially weighty reasons to suspect that the transfer would prevent competition or apparently risk national security; and if
- 2) it is apparent that the operations continue according to the licence terms and the Government does not have reasons to suspect that the new licence holder would not be able to comply with them.

[\(1207/2020\)](#)

A network licence transfer referred to in subsection 6 may also apply to only a part of the frequencies included in the licence. The licence holder shall explain in the transfer application as to who would be responsible for paying the licence fee provided in section 287 after the transfer.

All rights and responsibilities of the licence holder shall transfer to the new licence holder. Along with the licence transfer the related frequency reservation referred to in section 44 or radio licence referred to in section 39 shall also transfer in part or in full. The transferor of the licence shall immediately notify of the transfer to Traficom.

The Government shall publish information on the network licences referred to in section 8, subsection 2. [\(1207/2020\)](#)

## **Section 19**

### **Cancellation of a network licence**

The Government may cancel a network licence in part or in full, if:

- 1) the licence holder has repeatedly and seriously violated the provisions of this Act or the licence terms referred to in section 16;
- 2) the licence holder with a licence referred to in section 6, subsection 1 no longer has sufficient economic resources to meet its obligations in view of the nature and extent of the operation;
- 3) the network for which the licence was granted is not used for operations for which the radio frequencies were intended; or if
- 4) the licence holder has not in practice started operations referred to in the licence within two years of the start of the licence period, unless the Government, following the licence holder's application, orders otherwise due to technological development or reasons of overall economic conditions.

A further requirement for cancellation is that the network licence holder, despite being requested to do so, fails, within a reasonable period of at least one month, to rectify its conduct, replenish its economic resources to a sufficient level or prove it has started operations.

The Government may cancel a licence if the effective control in respect of the licence holder changes, except for a transfer within the same group of undertakings as referred to in section 18, subsections 1 and 2.

## **Section 20 (1207/2020)**

### **Leasing of the right to use frequencies**

A licence holder with a licence granted through an auction process referred to in section 8, subsection 2 may lease out the right to use the frequencies referred to in the licence to another enterprise, organisation or association. However, the licence holder continues to be responsible for the obligations referred to in section 39 regarding a radio licence and the frequency reservation referred to in section 44.

The Government shall, on application by a licence holder, approve the leasing of the right to use to another undertaking, if:

1) there are no especially weighty reasons to suspect that the leasing would apparently risk national security or prevent competition; and if

2) the lessor undertakes to be responsible for compliance with the licence terms.

The Government shall make a decision on the approval within two months of the arrival of the application.

The approval is decided by Traficom if the frequencies are leased for the provision of minor local network service in a mobile network operating in a restricted area.

Traficom shall approve the leasing of the right to use in accordance with the provisions of subsection 2. Traficom shall decide on the approval within two months of the arrival of the application. If the approval of an application could have an effect on national security or competition in the market, the matter is decided by the Government.

## **Section 21**

### **Relinquishing the network licence**

A licence holder may relinquish a licence by informing the licencing authority about it before the end of the licence period.

No licence fee referred to in section 287 for the remaining licence period shall be collected from a licence holder that has fully relinquished its licence. The licence fee of a licence holder that has partially relinquished its licence shall be reduced accordingly for the remaining licence period. Licence fees paid prior to relinquishing a licence will not be reimbursed.

## **Chapter 4**

### **Programming licence for digital television or radio broadcasting operations**

## **Section 22**

### **Digital television and radio broadcasting subject to a licence**

A programming licence is required for television and radio broadcasting in a digital terrestrial mass communications network excluding operations in which:

1) audiovisual content services or radio broadcasts can only be received in an educational institution, hospital, hotel or similar institution, or

2) considering the number of programmes or the recurrence of broadcasts the provision of audiovisual contents is not regular and not the main purpose of the service.

The Finnish Broadcasting Company Ltd may carry out digital public service television and radio broadcasting referred to in section 7 of the Act on the Finnish Broadcasting Company (1380/1993) without a licence.

## **Section 23 (1003/2018)**

### **Programming licence application procedure**

A programming licence for digital television or radio broadcasting is applied for with Traficom. The application shall include:



- 1) name, contact information and domicile of the applicant;
- 2) statement on the planned duration of the operation;
- 3) statement regarding the transmission technology to be used, maximum capacity required for distribution and availability of capacity;
- 4) statement regarding applicant's solvency and ability to carry out regular television broadcasting;
- 5) statement regarding the requirements for granting a licence referred to in section 26, if the licence is sought for television and radio programmes that are in the public interest;
- 6) public version of the application, which Traficom may publish as prescribed in subsection 2.

If there is free capacity, Traficom shall without delay publish the licence application received and, at the same time, announce the time period during which other applicants may apply for a programming licence. Traficom may, on its own initiative, also inform of available frequency capacity and the possibility to apply for a licence. A programming licence may be granted no earlier than one month from publication of the application or notification by Traficom.

If there is broadcasting capacity available for public interest television operations referred to in section 26, Traficom shall publish a notification of the available broadcasting capacity and simultaneously inform also of the time period within which a licence applicant shall submit the application to Traficom.

## **Section 24**

### **Right of the Finnish Broadcasting Company Ltd to television network capacity**

It is the licencing authority's responsibility to ensure that the Finnish Broadcasting Company Ltd obtains for its public service operation the necessary terrestrial television network transmission capacity provided to it by Government Decree pursuant to section 95, subsection 1 and that the undertaking is able to use it appropriately.

## **Section 25 (1003/2018)**

### **Granting a programming licence**

Traficom shall grant a programming licence referred to in section 22, subsection 1 to an applicant:

- 1) who has paid the application fee laid down in section 285;
- 2) who is solvent and has the apparent ability to broadcast regularly according to the programming licence;
- 3) if there is no apparent reason to suspect that the applicant violates this Act or section 6 of the Act on Audiovisual Programmes (710/2011) on compliance with the age limit of an audiovisual programme or is guilty of ethnic agitation referred to in chapter 11, section 10 of the Criminal Code (39/1889), aggravated ethnic agitation referred to in section 10a or of public incitement to an offence made with terrorist intent referred to in chapter 34a, section 1, subsection 1, paragraph 2 of said Act; and (1207/2020)
- 4) who has submitted an adequate statement regarding programme distribution management.

In preparing the decision, Traficom shall, if necessary, consult with the Ministry of Transport and Communications and act in cooperation with it.

If there is not adequate transmission capacity for all applicants that meet the requirements of subsection 1 or if granting a programming licence could have a significant effect on the general development of the communications market, the licence is granted by the Government. Traficom shall publish the information and notify the applicant that the matter has been transferred to a competent authority. Within two weeks of the transfer, an applicant for a licence may submit an application supplemented by the planned programme content to the Government.

If the licence matter was transferred to the Government for decision, the Government shall resolve the matter within two months of the transfer. In special cases the Government may extend the two-month deadline by at most eight months 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 publicly announced.

The Government shall, taking into consideration the television broadcasting of the area in question as a whole, aim at promoting freedom of speech and safeguarding the diversity of the provision of programmes and the needs of special groups of the public in a way that best promotes the aims provided in section 1.

## **Section 26 (1003/2018)**

### **Granting a licence for public interest television operations**

The capacity needed for public interest television operations is prescribed by Government Decree issued on the basis of section 95, subsection 1 to safeguard freedom of speech, the diversity of communications and the multitude of programmes.

Traficom shall follow the procedure provided in section 23 and section 25, subsection 1 in granting a programming licence for public interest multiplexes referred to in subsection 1.

A programming licence must be granted if:

- 1) the applicant has paid the application fee set out in section 285;
- 2) the broadcasts are freely available;
- 3) the broadcasts are available throughout Finland with the exception of the Åland Islands Region;
- 4) the broadcasts contain daily Finnish or Swedish programmes;
- 5) the broadcasts contain daily news and current affair programmes;
- 6) the broadcasts contain audio-subtitling and subtitling services referred to in section 211; (1207/2020)
- 7) the applicant has submitted an adequate statement regarding programme distribution management; and if (1207/2020)
- 8) the daily programme broadcasting time is at least 8 hours. [\(1207/2020\)](#)

In preparing the decision, Traficom shall, if necessary, consult with the Ministry of Transport and Communications and act in cooperation with it.

If there is not adequate transmission capacity for all applicants that meet the requirements of subsection 3 or if granting a programming licence could have a significant effect on the general development of the communications market, the licence is granted by the Government. Traficom shall publish the information and notify the applicant that the matter has been transferred to a competent authority. Within two weeks of the transfer, an applicant for a licence may submit an application supplemented by the planned programme content to the Government.

The Government shall grant a licence to the applicant who best meets the requirements laid down in subsection 3 and section 25, subsections 1 and 5. The Government shall decide on the matter within the time period referred to in section 25, subsection 4.

A public interest programming licence may only be granted to one undertaking of a group referred to in chapter 1, section 6 of the Accounting Act.

It is the licencing authority's duty to oversee that the public interest programming licence holder will have adequate terrestrial television capacity necessary for the broadcasting.

## **Section 27**

### **Programming licence terms**

A programming licence may be granted for a maximum period of ten (10) years.

A programming licence holder who has been granted a programming licence in a multiplex for public interest television broadcasting shall meet the requirements regarding the diversity of television programming referred to in section 26, subsection 3 throughout the validity period of the licence.

The Government may incorporate terms into a programming licence that concern:

- 1) geographical coverage of audiovisual programmes;
- 2) daily broadcasting time; or
- 3) transmission technology and capacity.

The Government shall have the right to attach terms to the licence that relate to the programme service and are necessary to safeguard the diversity of programmes and the needs of special groups of the public.

## **Section 28 (1003/2018)**

### **Temporary programming licence**

Traficom shall grant a temporary programming licence for television and radio operations in a digital terrestrial mass communications network without the procedure laid down in sections 23 and 25 if there is no apparent reason to suspect that the applicant violates this Act or section 6 of the Act on Audiovisual Programmes (710/2011) on compliance with the age limit of an audiovisual programme or is guilty of ethnic agitation referred to in chapter 11, section 10 of the Criminal Code (39/1889), aggravated ethnic agitation referred to in section 10a or of public incitement to

an offence made with terrorist intent referred to in chapter 34a, section 1, subsection 1, paragraph 2 of said Act if:

- 1) the operations do not last more than three months; or if
- 2) weekly operations do not last more than twelve hours.

[\(1207/2020\)](#)

A programming licence granted for the operations referred to in subsection 1, paragraph 1 may be granted again to the same operator or for the provision of mainly the same programme at the earliest two months from the expiry of the previous programming licence. The provisions above do not apply to operations that are temporary or not continuous or regular for another reason.

Traficom may grant a licence for operations referred to in subsection 1, paragraph 2 for a maximum period of one year.

### **Section 29 (456/2016)** **Amendments to a programming licence**

The licencing authority may amend a programming licence during its validity period at the request of or with the consent of the licence holder or also otherwise if it is necessary due to changes taking place in technical development, international treaty obligations, the operating conditions of an activity subject to a licence or in market conditions or due to other material changes.

### **Section 30 (1003/2018)** **Transfer of a programming licence**

A programming licence may only be transferred within a group of undertakings in the meaning of chapter 1, section 6 of the Accounting Act. An intra-group transfer shall be immediately notified to Traficom.

If the control in the meaning of chapter 1, section 5 of the Accounting Act or the effective control in respect of the licence holder changes, such a change shall be immediately notified to the licencing authority, which shall decide within two months from the notification whether to cancel the licence due to the change in the effective control.

The licencing authority may decide not to cancel the licence if it is apparent that:

- 1) the requirements for granting a licence pursuant to sections 25 and 26 have been met; and that
- 2) operations continue according to the licence terms.

The programming licence holder may request from the licencing authority to be informed in advance of the effect the change in the effective control will have on the licence. The licencing authority shall issue a decision within two months of the application's arrival.

If control changes in a concentration which in accordance with the Competition Act has to be notified to the Finnish Competition and Consumer Authority or, in accordance with the EC Merger Regulation, to the Commission, the decision of the licencing authority shall be issued no later than within two months of the final decision on the matter relating to the concentration. [\(1207/2020\)](#)

The competence of the licencing authorities is determined in accordance with section 25, subsection 3. If the licence matter is transferred from Traficom to the Government for decision, the Government shall resolve the matter within two months of the transfer. ([1207/2020](#))

### **Section 31 (1003/2018)**

#### **Lapse of a programming licence**

A programming licence granted for television or radio broadcasting ceases to be valid if no regular activity in accordance with the licence has been started within six months from the first date of the licence period or if regular broadcasting has been interrupted for a period exceeding 30 days. Broadcasting can be considered to meet the licence requirements only if operations are carried out in all the frequencies or regions to which the licence entitles. Traficom shall notify the licence holder of the lapse of the programming licence. If amendments are made to a frequency block or frequency band in the programming licence and no operations have been started within six months from the entry into force of the amendment regarding the band that was amended, the programming licence ceases to be valid in terms of the amendments.

If there is a particularly weighty reason related to the operating requirements, the licencing authority may grant a permission to deviate from the provisions laid down in subsection 1. The licence holder shall apply for an exceptional permit from the licencing authority before the licence lapses.

### **Section 32**

#### **Cancelling of a programming licence**

The Government may cancel a network licence in part or in full, if:

- 1) the programming licence holder has repeatedly and seriously violated this Act, section 62, subsection 2 of the Lotteries Act (1047/2001) on the sale and supply of tickets for a lottery, section 6 of the Act on Audiovisual Programmes on compliance with the age limit of an audiovisual programme, the licence terms referred to in section 27 or 37 of this Act or is guilty of ethnic agitation referred to in chapter 11, section 10 of the Criminal Code (39/1889), aggravated ethnic agitation referred to in section 10a or of public incitement to an offence made with terrorist intent referred to in chapter 34a, section 1, subsection 1, paragraph 2 of said Act; and if ([1207/2020](#))
- 2) the licence holder no longer has sufficient economic resources to meet its obligations in view of the nature and extent of the operation.

#### **(456/2016)**

A further requirement for cancellation is that the licence holder, despite being requested to do so, fails to rectify its conduct or replenish its economic resources to a sufficient level within a reasonable period of at least one month.

The licencing authority may cancel a programming licence if the effective control in respect of the licence holder changes, except for a transfer within the same group of undertakings as referred to in section 30, subsections 1 and 2.

The licencing authority may cancel the licence in part or in full, if this is necessary due to a change in the frequency allocation plan of frequencies allocated to operations subject to a licence.

If the programming licence holder is declared bankrupt, the licence shall become invalid immediately.

### **Section 33 (1003/2018)** **Relinquishing the programming licence**

A programming licence holder may relinquish the licence in full or in part by notifying Traficom of it before the termination of the licence period.

## **Chapter 5** **Programming licence for analogue radio broadcasting operations**

### **Section 34 (1003/2018)** **Analogue radio broadcasting subject to a licence**

A programming licence is required for radio broadcasting operations in an analogue terrestrial mass communications network. The programming licence is applied for with Traficom.

Analogue radio broadcasting operations that last a maximum of three months do not require a programming licence. In addition, minor radio broadcasting operations in a limited area may be carried out without a programming licence.

Pursuant to section 7 of the Act on Yleisradio Oy (Finnish Broadcasting Company), the Finnish Broadcasting Company Ltd has the right to carry out analogue public service radio broadcasting without a licence.

### **Section 35 (1003/2018)** **Application procedure for a programming licence for analogue radio broadcasting**

Traficom shall publish a notice declaring programming licences for analogue radio broadcasting open for application when open frequencies intended for radio broadcasting subject to a licence are assigned in the regulation of Traficom issued under section 96. At the same time, Traficom shall announce the time period during which licence applicants shall submit their application to Traficom.

The application shall include:

- 1) name, contact information and domicile of the applicant;
- 2) statement on the planned duration of the operation;
- 3) statement regarding applicant's solvency and ability to carry out regular radio broadcasting;
- 4) frequency or frequency unit applied for; and
- 5) statement regarding the planned coverage area.

### **Section 36 (1003/2018)** **Granting a licence for analogue radio broadcasting operations**

Traficom shall grant a programming licence referred to in section 34 to an applicant:

- 1) who has paid the application fee laid down in section 285;

2) who is solvent and has the apparent ability to broadcast regularly according to the programming licence;

3) there is no apparent reason to suspect that the applicant violates this Act or is guilty of ethnic agitation referred to in chapter 11, section 10 of the Criminal Code (39/1889), aggravated ethnic agitation referred to in section 10a or of public incitement to an offence made with terrorist intent referred to in chapter 34a, section 1, subsection 1, paragraph 2 of said Act; and (1207/2020)

4) the granting of the programming licence does not prevent the efficient use of frequencies. In preparing the decision, Traficom shall, if necessary, consult with the Ministry of Transport and Communications and act in cooperation with it.

If there are not adequate frequencies for all applicants that meet the requirements of subsection 1 or if granting a programme licence could have a significant effect on the general development of the communications market, the licence is granted by the Government. Traficom shall publish the information and at the same time notify the applicant that the matter has been transferred to a competent authority. Within two weeks of the transfer, an applicant for a licence may submit an application supplemented by the planned programme content to the Government.

The Government shall decide on the matter within the time period referred to in section 25, subsection 4.

When declaring licences open for application and granting them, the Government licencing authority shall, taking into consideration the radio broadcasting of the area in question as a whole, aim at promoting freedom of speech and safeguarding the diversity of the provision of programmes and the needs of special groups of the public as set forth in section 1.

### **Section 37**

#### **Terms for a programming licence for analogue radio broadcasting**

The licencing authority shall grant the programming licences for a limited time, for a maximum period of ten (10) years.

The programming licence specifies the frequency block the licence holder may use to carry out operations subject to a licence.

The Government may incorporate terms into a programming licence that concern audio coverage area and daily broadcasting time.

The Government has the right to attach to the licences terms relating to the programme service that are necessary to safeguard the diversity of programmes and the needs of special groups of the public.

In addition, the provisions of section 29 on amending, section 30 on transferring, section 31 on lapsing, section 32 on cancelling and section 33 on relinquishing a programming licence shall also apply.

### **Section 38**

#### **Right of the Finnish Broadcasting Company Ltd to analogue radio network frequencies**

It is the licencing authority's responsibility to ensure that the Finnish Broadcasting Company Ltd obtains for its public service operation the necessary radio network frequencies granted to it by

Government Decree pursuant to section 95, subsection 1 and that the company is able to use them appropriately.

## **Chapter 6 Radio licence**

### **Section 39 (1003/2018) Radio licence**

A radio licence from Traficom is required for the possession and use of radio transmitters unless otherwise laid down in this section.

*Subsection 2 was repealed by Act 1207/2020.*

No radio licence is required for the possession and use of a radio transmitter if the radio transmitter functions only on the collective frequency designated for it by Traficom and if its conformity has been confirmed in the manner laid down in this Act. Traficom may issue regulations restricting the use of such radio transmitters which are necessary to ensure the efficient and appropriate use of frequencies and to prevent or remove interference. ([1207/2020](#))

Traficom may order that a written register notification that is valid no longer than five years shall be submitted for the possession and use of a radio transmitter referred to in subsection 3 prior to its deployment.

No radio licence is required for the possession of a radio transmitter if the radio transmitter has been permanently rendered technically inoperable for radio communication or if it is otherwise evident that the possession is not for the purpose of radio communication.

Traficom issues regulations on the procedure by which approval as a licence referred to in subsection 1 can be given to licences, other authorisations, or markings indicating the right to use a radio transmitter, which have been issued by the competent authority of another country.

The Finnish Defence Forces and the Finnish Border Guard do not require a radio licence for the possession and use of a radio transmitter if the radio transmitter is used solely in the frequency bands prescribed for the exclusive use of the Defence Forces and the Border Guard in the regulation of Traficom issued under section 96, subsection 1. ([1207/2020](#))

Police officers of a foreign State do not need a radio licence for the possession and use of a radio transmitter to be used in pursuit referred to in Article 41, or in cross-border surveillance referred to in Article 40, of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders signed at Schengen by the Benelux countries, the Federal Republic of Germany and the French Republic (Finnish Treaty Series 23/2001).

Representatives of foreign States do not need a radio licence for the possession and use of a radio transmitter to be used during a state or working visit if Traficom has been notified of the possession and use of the radio transmitter and the information requested by Traficom on the configuration of the radio transmitter has been given.

Personnel of a foreign State as referred to in the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (Finnish Treaty Series 15/2005) do not need a radio licence for the possession and use of a radio transmitter to be used in relief operations and disaster mitigation as referred to in the Convention if Traficom has been



notified of the possession and use of the radio transmitter and the information requested by Traficom on the configuration of the radio transmitter and its intended use has been given.

## **Section 40 (1207/2020)** **Granting a radio licence**

A radio licence is granted by Traficom. The application shall include the information necessary for processing the application requested by Traficom.

A radio licence for radio frequencies allocated to be used by electronic communications services shall be granted within six weeks after Traficom has received all documents necessary to resolve the matter. In special cases, Traficom may extend the six-week time limit by at most eight months 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 time limit shall be announced publicly.

If granting an individual radio licence could have an effect on the general development of the communications market, Traficom shall, when preparing the licence decision, consult with the Ministry of Transport and Communications and act in cooperation with it. If granting a radio licence could have a significant effect on the general development of the communications market or apparently on national security, the radio licence is granted by the Government.

Radio licences are granted for a maximum of ten (10) years at a time. However, a radio licence for a radio transmitter to be used in providing telecommunications that require a licence as referred to in section 6, a radio licence for a radio transmitter to be used for digital television and radio broadcasting as referred to in section 22 or for analogue radio broadcasting referred to in section 34 are granted for a maximum of 20 years at a time.

Traficom grants a radio licence on application to an operator who was granted a licence by auction referred to in section 11 or a transferee of such a licence after the licence holder has paid the first instalment of the licence fee referred to in section 287.

A radio licence granted for operations that last a maximum of three months referred to in section 34, subsection 2 may be granted again to the same or partially same coverage and to the same operator or for the provision of mainly the same programme at the earliest two months from the expiry of the previous radio licence. The provisions above do not apply to operations that are temporary or not continuous or regular for another reason.

A radio licence for minor radio broadcasting in a limited area referred to in section 34, subsection 2 shall be granted for a maximum of one year at a time.

A radio licence shall be granted for operations referred to in section 34, subsection 2 if there is no apparent reason to suspect that the applicant violates this Act or is guilty of ethnic agitation referred to in chapter 11, section 10 of the Criminal Code (39/1889), aggravated ethnic agitation referred to in section 10a or of public incitement to an offence made with terrorist intent referred to in chapter 34a, section 1, subsection 1, paragraph 2 of said Act.

## **Section 41 (1003/2018)** **Terms for granting a radio licence or frequency reservation**

Unless otherwise provided in subsections 2–4 of this section, a radio licence or a frequency reservation that meets the requirements laid down in section 44 shall be granted if:

- 1) it is applied for a frequency band which, pursuant to a Government Decree issued under section 95, subsection 1 or to a regulation issued by Traficom under section 96, subsection 1, has been allocated for the use referred to in the application;
- 2) it is possible to allocate technically appropriate radio frequencies within the frequency band for use or reservation by the applicant;
- 3) the radio transmitter's conformity has been confirmed; and if
- 4) Traficom has no reasonable grounds to suspect that the applicant violates the provisions or regulations concerning radio communications or the radio licence terms or apparently endangers national security.

#### (1207/2020)

If there is an unpaid sum concerning the applicant's previous radio licence or frequency reservation that pertains to the same type of equipment as the new licence or reservation being applied for, and the overdue amount is not insignificant, the licence or reservation may be denied.

If the applicant aims to provide telecommunications subject to a licence as referred to in section 6, to pursue television broadcasting that requires a licence as referred to in section 22 or radio broadcasting referred to in section 34, no radio licence or frequency reservation can be granted unless the applicant has the necessary network or programming licence.

If only a proportion of applicants can be granted a radio licence or frequency reservation due to a scarcity of radio frequencies, the licence or reservation shall be granted to those applicants whose operations best promote the purposes of this Act laid down in section 1.

Applicants for or holders of a radio licence and, where necessary, also other telecommunications operators are obliged to provide Traficom with the information requested by it that is necessary in making the licence decision referred to in subsection 4.

### **Section 42 (1003/2018)**

#### **Licence terms**

Traficom may incorporate into the radio licence terms that are necessary to ensure the efficient and appropriate use of frequencies, efficiency of the communications markets and the prevention or removal of interference. In the licence terms, Traficom may further order that the radio licence be kept in the immediate vicinity of the radio transmitter.

The licence terms of a radio transmitter with a high risk of interference may order that within six months from the entry into force of the radio licence entitling to the use of the transmitter or an amendment to the radio licence relating to the technical characteristics of the transmitter an inspection shall be carried out to establish that the transmitter and its operation conform to the regulations and the terms of the radio licence. Traficom carries out the inspection on application by the licence holder. Traficom determines the types of radio transmitters deemed to present a high risk of interference and issues further regulations on the inspection procedure and on the adjustment of transmitters and other requirements for the use of the transmitter. [\(1207/2020\)](#)

### **Section 43 (1003/2018)**

#### **Consulting obligation**

The parties representing users of communications services and telecommunications operators shall be reserved an opportunity to present their views on granting a radio licence for general telecommunications, on a regulation to be issued by Traficom under section 39, subsection 3, on a Government decree to be issued under section 95, subsection 1 and on a regulation to be issued by Traficom under section 96, subsection 1 prior to their issuance. The parties representing users of communications services and telecommunications operators shall be reserved an opportunity within one month to present their views on any amendment to a rule, decision or regulation. Exceptions to the one-month time limit can be made in exceptional circumstances. The consulting obligation does not apply if the proposed amendments are minor and they are agreed upon with the radio licence holder.

## **Section 44**

### **Radio frequency reservations**

An application may be made to reserve the radio frequencies needed for use of a radio transmitter before applying for a radio licence if this is justified for planning or implementation of a radio system or if the acquisition of a radio transmitter necessitates advance information on the radio frequencies available.

The frequency reservation is granted for a maximum of one year at a time. The frequency reservation will expire if a radio licence is granted for the use of a radio transmitter referred to in section 39.

## **Section 45 (1003/2018)**

### **Granting a frequency reservation**

A frequency reservation is granted by Traficom. The application shall include the information necessary for processing the application requested by Traficom.

Traficom grants a frequency reservation to a holder of a network licence referred to in section 6 without an application following the entry into force of the licence. ([1207/2020](#))

If the validity of a radio licence for operations in accordance with a network licence referred to in section 6 expires while the licence is still valid, the frequency reservation becomes valid again without an application. ([1207/2020](#))

## **Section 46 (1003/2018)**

### **Renewal of a radio licence without application**

Traficom may renew a radio licence without application by the licence holder for a maximum of ten years at a time if the licence holder has given written consent to the renewal.

Traficom may refrain from renewing a radio licence if the requirements of section 41 for granting a radio licence are not met or the requirements of section 49 for cancelling a radio licence are met.

## **Section 47 (1003/2018)**

### **Amending a radio licence**

During the validity period of a radio licence, Traficom may amend the licence terms without the consent of the licence holder if this is necessary because of a change in the confirmed allocation plan for a radio frequency, regulations on frequencies or international treaty obligations, or if it is

justified for the prevention or removal of interference in radio communications or on the basis of the radio frequency band's primary purpose of use.

For a network licence holder who has been granted a licence referred to in section 6, subsection 1, radio licence terms can also be amended if this is necessary due to a change in the economic or technical environment of the telecommunications operator or due to a new telecommunications operator entering the market or other change in market conditions that will necessitate a reorganisation of radio frequency use.

The terms of a radio licence may also be amended by application of a radio licence holder. If a radio licence holder for an electronic communications service applies for an amendment to radio licence terms, Traficom shall, before issuing a decision, inform the licence holder of how a re-examination carried out by it would influence the radio licence, and allow the licence holder a reasonable time limit to withdraw the application.

If the technology used in the provision of electronic communications services is not specified in the licence, the licence holder shall notify Traficom of the technology to be used in the network prior to commencing operations. If the licence holder changes the technology used, it shall notify Traficom of it prior to implementing any changes.

### **Section 48 (1003/2018)** **Transfer and lease of a radio licence**

A radio licence for other than network or programming operations subject to a licence may be transferred. However, the transfer of a radio licence may be prohibited in the licence if the use of the radio transmitter requires a proficiency certificate referred to in section 265 or if the licence transfer would have a significant effect on the general development of the communications market.

Such transfer shall be notified without delay to Traficom. Traficom may within a month of the reception of a notice reject the transfer of a radio licence if it is apparent that the requirements provided in section 40, subsection 5 or in section 41, subsection 1 are not met or if the application for a radio licence is rejected on the basis of section 41, subsection 2 or 3.

Relinquishing a licence to someone to whom a licence holder leases out or otherwise temporarily grants use of its radio transmitter is not considered transfer of a radio licence. In such cases the licence holder remains responsible for ensuring that the radio transmitter is used in accordance with the licence terms.

If the licence holder merges with another limited liability company in the manner referred to in the Companies Act (624/2006), the radio licence will be transferred to the receiving undertaking. If the business activity performed by the licence holder and to which the radio licence pertains is given up completely, the radio licence will be transferred to the receiving party. If the holder of the radio licence is declared bankrupt and the administration of the bankrupt's estate notifies Traficom without delay that the bankrupt's estate continues the business activity of the licence holder, the radio licence will be transferred to the bankrupt's estate.

### **Section 49 (1003/2018)** **Cancellation of radio licences and frequency reservations**

Traficom may, in full or in part, cancel a radio licence or a frequency reservation, if:

- 1) the licence holder, despite the measures laid down in sections 330–332, seriously or repeatedly violates this Act or the provisions, regulations or licence terms issued under it in a way that is significant in terms of maintaining interference-free radio communications, or significantly violates the obligation to pay for a radio licence or radio frequency reservation;
- 2) the licence holder, deliberately or through negligence, transmits a false distress signal referred to in chapter 34, section 10 of the Criminal Code, or disturbs or harms safety radio communications in some other way;
- 3) the licence holder does not use the radio frequencies allocated in the licence and fails to start using them within a reasonable time limit set by Traficom;
- 4) a radio transmitter uses radio frequencies in an inappropriate way on account of its technical characteristics;
- 5) the requirements referred to in section 96, subsection 6 for the secondary use of a frequency band in use of a licence holder are no longer being met;
- 6) a licence granted for television and radio broadcasting ceases to be valid;
- 7) a licence referred to in section 6 ceases to be valid; or if
- 8) international treaties binding on Finland require such cancellation.

No separate appeal can be made against the decision setting a time limit referred to in subsection 1, paragraph 3 above.

## **Section 50 (1003/2018)**

### **Decision on interference protection**

Traficom may, upon application by a radio frequency user, decide on measures to protect a fixed radio receiving station against interference if the decision can be made without causing unreasonable economic or other damage to other users of radio frequencies in comparison with the advantage to be obtained through the protection.

In the decision, which will remain in force for up to 10 years at a time, terms may be imposed on the construction, location and use of the station being protected. The decision may be cancelled or its terms amended if there is a significant change in the circumstances prevailing when the decision was made.

## **PART III**

### **IMPOSING OBLIGATIONS AND UNIVERSAL SERVICE**

#### **Chapter 7**

##### **Grounds for obligations**

## **Section 51 (1207/2020)**

### **Market definition**

Traficom shall define the relevant communications markets at regular intervals and carry out a market analysis as laid down in section 52. Traficom shall take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the

Commission and the Commission Recommendation on relevant product and service markets. In addition, Traficom shall, where necessary, take into account the result of the geographical survey referred to in section 51a.

### **Section 51 a (1207/2020)** **Geographical survey of communications networks**

Traficom shall, at least at three-year intervals, carry out a geographical mapping of the coverage of broadband networks.

Traficom may include in the survey a forecast of the availability of broadband networks. The forecast shall include relevant information on the intentions of undertakings or authorities to deploy new networks and to extend or upgrade the existing networks to the extent that such information is available and can be submitted with reasonable effort.

Traficom may designate the areas where, on the basis of the survey and forecast, no party is planning to deploy a very high capacity network or to upgrade or extend a network with which the download speed of the existing network be raised to a performance of at least 100 Mbps over the duration of the forecast period.

Traficom may invite undertakings and authorities to declare their intention to deploy very high capacity networks within the designated areas. If an undertaking or an authority, on the basis of said invitation, declares such intentions, Traficom may require other undertakings to declare their corresponding intentions or their intentions to significantly upgrade or extend the existing network within the designated area. Traficom shall inform any undertaking expressing its interest whether the designated area is covered or likely to be covered by a communications network. Traficom shall comply with an efficient, objective, transparent and non-discriminatory procedure.

The authorities shall take into account the results of the survey and forecast and the designated areas when designing national broadband plans, allocating public funds for the building of broadband networks, defining coverage obligations for the network licences and verifying the availability of services falling within the universal service obligation.

### **Section 52 (1207/2020)** **Market analysis and a decision on significant market power**

At regular intervals, Traficom shall conduct a market analysis of relevant wholesale and retail markets in order to assess the competitive situation. A market analysis shall be conducted no later than three years after the Commission's Recommendation on relevant markets if the market concerned has not been defined earlier, and at least at five-year intervals, if the market concerned has been previously defined. The five-year maximum period may be extended for up to one year if Traficom requests this from the Commission no later than four months before the expiry of the period and the Commission does not object it within one month of the request. Traficom shall, when conducting a market analysis, take into the utmost account the guidelines on market analysis and the assessment of significant market power published by the Commission.

Traficom may request BEREC to provide assistance in conducting a market analysis if Traficom deems that it cannot conduct the market analysis within the time limit in accordance with subsection 1.

Traficom may impose on markets the obligations referred to in section 53, 53a or 54, if:

- 1) high and non-transitory structural, legal or regulatory barriers to entry are present;
- 2) the market structure does not tend towards effective competition within the relevant time horizon; and if
- 3) competition law alone is insufficient to adequately address the market failures.

Traficom shall deem that the requirements referred to in subsection 3 are automatically met if the markets under review are included in the markets listed in the Commission Regulation on relevant product and service markets unless it separately states that one or more of the requirements referred to in subsection 3 are not met.

In conducting the market analysis referred to in subsection 1, Traficom shall consider the markets from a forward-looking perspective taking into account:

- 1) market developments affecting the likelihood of tending towards effective competition;
- 2) competitive constraints at the wholesale and retail levels;
- 3) other measures and obligations imposed on said markets; and
- 4) obligations imposed on other relevant markets on the basis of significant market power.

Traficom may, together with the national regulatory authority of another Member State of the European Economic Area, hereinafter an EEA State, request BEREC to conduct an analysis of potential transnational markets on the basis of which the Commission may adopt decisions identifying transnational markets.

In the case of transnational markets, Traficom shall, when conducting a market analysis, act in cooperation with the national regulatory authority of the other EEA State and decide, in a concerted fashion, on any imposition, amendment or withdrawal of obligations imposed in accordance with section 53, 53a or 54. Traficom may act in cooperation with the national regulatory authority of another EEA State also in a situation where the market conditions in the countries are sufficiently homogeneous. Traficom and the national regulatory authority of another EEA State shall take the utmost account of the Commission guidelines on market analysis and the assessment of significant market power.

Traficom may, together with the national regulatory authority of another EEA State, request BEREC to conduct an analysis of potential transnational end-user demand. Traficom may present the request if it notices serious problems in meeting the demand in the markets listed in the Commission Recommendation referred to in section 51. Traficom shall submit a reasoned request and provide supporting evidence. If BEREC issues guidelines on common approaches on the basis of the analysis, Traficom shall take the utmost account of them when imposing the obligations referred to in sections 53, 53a and 54.

By its decision, Traficom shall declare an undertaking to be an undertaking 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. When assessing whether an undertaking has significant market power, Traficom shall take the utmost account of the Commission guidelines on market analysis and the assessment of significant market power.

If an undertaking has significant market power in a particular market in accordance with subsection 9, it may also be considered to have the same position in closely related markets if the undertaking is able to extend its market power from the first markets to closely related markets and thereby strengthen its market power also in those markets.

Traficom 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. Traficom shall, by its decision, withdraw from an undertaking the position of significant market power in certain markets if, on the basis of market analysis, it is seen that the undertaking no longer has the significant market power referred to in subsection 9 or if the changed conditions in the market no longer meet the requirements provided in subsections 3-5. The undertaking with significant market power shall notify the parties affected by the withdrawal of obligations of their withdrawal. Traficom may set a time period for submitting the notice and determine specific conditions and notice periods relating to the notice.

### **Section 53 (1207/2020)**

#### **Obligations imposed on an operator with significant market power in the wholesale markets**

By its decision, Traficom shall impose on an undertaking with significant market power obligations referred to in sections 56, 61 and 65 and in chapter 10 if they are necessary to eliminate barriers to competition or to promote competition in the relevant markets in question.

In derogation from the provisions of subsection 1, Traficom may, by its decision, impose obligations referred to in sections 68-71 and 74 on an undertaking with significant market power which is considered to have the significant market power referred to in section 52, subsection 9 also in closely related markets.

When considering the imposition of the obligations referred to in subsections 1 and 2, Traficom shall assess whether the obligations to be imposed under section 55, commercial access offers or the obligations imposed earlier under section 53, 53a or 54 would be sufficient to ensure the end-user interests.

The obligations referred to in subsections 1 and 2 shall be in correct proportion to the aim being addressed, and in imposing them, the following in particular shall be taken into account:

- 1) the appropriateness of interconnection and access in technical and economic terms, taking into account the degree of development of the markets and the type of interconnection or access;
- 2) the feasibility of providing the access, taking into account the capacity available;
- 3) the requirements concerning data protection and information security;
- 4) the investments made by an undertaking with significant market power and risks taking into account especially investments to be made in a very high capacity network;
- 5) the need to safeguard competition in the long term;
- 6) relevant industrial property rights and copyrights;
- 7) the provision of European services;



- 8) the expected technological evolution affecting network design and management;
- 9) the need to ensure technology neutrality.

In its decision regarding significant market power, Traficom shall assess the impact of the obligations to be imposed on the undertakings on the markets.

Traficom shall amend a decision referred to in subsections 1 and 2 if significant changes occur in the matters referred to in subsections 1-3 or in the competitive situation in the markets.

### **Section 53 a (1207/2020)**

#### **Obligations imposed on a wholesale-only undertaking with significant market power**

In derogation from the provisions of section 53, subsection 1, Traficom may, by its decision, impose the obligations referred to in section 56, subsection 3; sections 61, 67 and 68 and in section 71, subsection 2, paragraph 3 on a wholesale-only undertaking with significant market power if they are justified on the basis of a market analysis and a prospective assessment of the behaviour of the wholesale-only undertaking with significant market power.

Traficom shall amend a decision referred to in subsection 1 if there are relevant changes in matters on which the decision is based. The undertakings referred to in said subsection shall notify Traficom of any relevant changes without undue delay.

Traficom shall also amend the decision referred to in subsection 1 if it assesses based on the terms and conditions offered by a wholesale-only undertaking with significant market power to its customers that competition problems have arisen or are likely to arise to the detriment of users and, where necessary, impose on the undertaking, by its decision, obligations referred to in section 56, subsections 1 and 3 and sections 69-71 and 74 in addition to the obligations referred to in subsection 1.

### **Section 54 (1003/2018)**

#### **Obligations imposed on an operator with significant market power in a retail market**

If Traficom, following a market analysis, finds that no competition exists in the defined retail market and that the obligations imposed on an undertaking with significant market power in the wholesale market do not sufficiently promote competition in the retail market, Traficom shall, where necessary, by its decision, impose additional obligations referred to in subsection 2 on a retail market undertaking with significant market power.

In order to achieve the aim referred to in subsection 1, Traficom may order that a retail market undertaking with significant market power operating:

- 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 users in an unwarranted manner;
- 4) may not tie a specific product or service to other products or services.

In order to achieve the aims referred to in subsection 1 and to protect the end-user interests, Traficom may impose on a retail market undertaking with significant market power the obligation to observe:

- 1) the maximum prices set by Traficom;
- 2) cost-oriented pricing;
- 3) pricing on comparative markets; or
- 4) the obligations relating to the control of pricing.

[\(1207/2020\)](#)

Any additional obligation imposed shall be in correct proportion to the aim being addressed. Traficom shall amend a decision referred to in subsection 1 if there are significant changes in the competitive situation in the market.

### **Section 55 (1207/2020)**

#### **Obligations imposed on an operator on the basis of other criteria than significant market power**

Traficom may, by its decision and under the conditions provided below in this Act, impose on a telecommunications operator and on an undertaking referred to in section 55a, subsection 1; section 55d, subsection 2; and in section 55e obligations on the basis of other criteria than significant market power relating to granting and interconnection of access in accordance with chapter 7a and related obligations.

The obligations imposed shall be unbiased, fair, proportionate and non-discriminatory.

Traficom shall assess the results of the obligations and terms imposed under subsection 1 five years after the imposition of the obligations. Traficom shall amend or withdraw a decision referred to in subsection 1 if significant changes occur in the circumstances that required the obligation to be imposed.

### **Chapter 7a (1207/2010)**

#### **Obligations relating to granting and interconnection of access imposed on the basis of other criteria than significant market power**

### **Section 55a (1207/2020)**

#### **Obligations relating to granting of access imposed on the basis of other criteria than significant market power**

Traficom may, by a decision in accordance with section 55, impose on a telecommunications operator and other owners of wiring and cables on the basis of other than significant market power the obligation to grant access to wiring and cables and to their associated facilities inside buildings or up to the first concentration or distribution point located outside the building as determined in the decision if the replication of wiring and cables would be economically inefficient or physically impracticable.

Traficom may include in an obligation in accordance with subsection 1 orders regarding access to wiring and cables and their associated facilities, transparency and non-discrimination, apportioning of costs of access and possible adjustment to take into account risk factors.

Traficom may impose an obligation in accordance with subsection 1 to grant access further than the first concentration or distribution point if the economic or physical barriers to replication of wiring and cables are so high and non-transitory that the obligation imposed in accordance with subsection 1 is not sufficient to prevent a significant reduction of competition. Traficom may impose an obligation to grant access under fair and reasonable conditions to up to a point that is sufficiently close to end-users to be commercially viable. Traficom shall take utmost account of the guidelines of BEREC when determining such point. Traficom may impose active or virtual access obligations if this is justified on technical or economic grounds.

Traficom may not impose obligations in accordance with subsection 3 if an undertaking operating only on wholesale markets in accordance with section 53a offers to other telecommunications operators a corresponding alternative through which other telecommunications operators may gain access to the wiring, cables and their associated facilities of others on fair, non-discriminatory and reasonable terms and conditions.

In derogation from the provisions of subsection 4, Traficom may, by its decision, impose obligations in accordance with subsection 3 if the network of a wholesale-only undertaking is publicly funded.

Traficom may apply subsection 4 to a telecommunications operator providing access to a very high capacity network on fair, non-discriminatory and reasonable terms and conditions.

Traficom may not impose obligations in accordance with subsection 3 if the imposition of obligations would compromise the economic or financial viability of a new network deployment.

The obligation referred to in subsections 1 and 3 may not be imposed on owners of wiring and cables if said wiring and cables serve the security network operation referred to in the Act on the Operation of the Government Security Network.

### **Section 55 b (1207/2020)**

#### **Imposition of obligations relating to granting of access to electronic programme guides and application programming interfaces**

Traficom may, by a decision under section 55, impose an obligation on a telecommunications operator to grant access on grounds other than significant market power on fair, reasonable and non-discriminatory terms:

- 1) to a digital television or radio electronic programme guide if this is necessary to ensure that information on digital television and radio broadcasts covered by the transmission obligation referred to in section 227 are made available to the public in an electronic programme guide;
- 2) to an application programming interface for a television or radio system if it is necessary to ensure that information on digital television and radio broadcasts and complementary services covered by the transmission obligation referred to in section 227 can be connected to the application programming interface used.

### **Section 55 c (1207/2020)**

#### **Obligations relating to sharing of passive infrastructure and localised roaming access agreements imposed on grounds other than significant market power**

Traficom may, by a decision under section 55, impose an obligation on a telecommunications operator to share passive infrastructure and to conclude localised roaming access agreements on grounds other than significant market power. Traficom may impose the obligation if it is directly necessary for the local provision of services which rely on the use of radio spectrum and provided that other undertakings cannot gain access to a corresponding infrastructure on fair and reasonable terms and conditions. Traficom may impose the obligation only if the area is subject to insurmountable economic or physical obstacles for the market-driven deployment of infrastructure for the provision of networks or services which rely on the use of radio spectrum and therefore access to networks or services by end-users is severely deficient. Traficom may impose obligations only where the possibility to impose obligations is clearly provided for when granting the network licence referred to in section 6, subsection 1 or the radio licence referred to in section 39, subsection 1.

When imposing the obligations referred to in subsection 1, Traficom shall have regard to:

- 1) the need to maximise broadband connectivity in the European Union, along major transport paths and in particular territorial areas and the range of services available for users and the quality of services;
- 2) the efficient use of radio spectrum;
- 3) the technical feasibility of sharing and associated conditions;
- 4) the infrastructure-based and service-based competition;
- 5) technological innovation;
- 6) creation of incentives for the infrastructure rollout.

Traficom may impose access obligations also on an active infrastructure if the obligations referred to in subsection 1 are insufficient to address the situation.

In connection with the dispute resolution referred to in section 314, Traficom may impose on the beneficiary of the infrastructure access in accordance with subsection 1 the obligation to share the radio spectrum with the infrastructure host in the area covered by the obligation referred to in subsection 1 to which the beneficiary has access.

### **Section 55 d (/1207/2020)**

#### **Obligations for interconnection imposed based on other than significant market power**

Traficom may, by a decision under section 55, impose, on other grounds than significant market power, on a telecommunications operator who controls user access to a communications network:

- 1) an obligation for interconnection in accordance with section 61 if the imposition of the obligation is necessary to ensure end-to-end connectivity of the communications networks;
- 2) an obligation to make its services interoperable with services of another telecommunications operator to the extent necessary.

Traficom may, by a decision under section 55, impose an obligation to make their services interoperable also on providers of number-independent interpersonal communications services if the service provided by the operator reaches significant level of coverage and user uptake, if the

imposition of the obligation is necessary to ensure end-to-end connectivity between end-users and the interoperability between interpersonal communications services and said interoperability would otherwise be endangered. Traficom may impose such obligation only if the Commission has adopted implementing measures in the matter.

Traficom may include to the obligation in accordance with subsection 2 proportionate obligations to publish, allow the use, modify and redistribute relevant information issued by the authorities and other service providers and to use European or international standards and specifications.

### **Section 55 e (1207/2020)** **Co-location and sharing**

Traficom may oblige the network operator to allow sharing and co-location of property for other telecommunications operators if a network operator:

- 1) has placed a telecommunications cable or radio mast, related equipment, a cable, minor structures or poles pursuant to a decision referred to in section 233 in an area owned or controlled by another;
- 2) has placed a mobile network base station, related equipment or cable in a building owned or controlled by another party pursuant to a decision referred to in section 233; or
- 3) has affixed necessary equipment to buildings and structures in a manner referred to in section 236.

Traficom may impose an obligation referred to in subsection 1 if the construction and location cannot otherwise be organised satisfactorily and at a reasonable cost. A further requirement for imposing the obligation is that it shall not prevent or unreasonably restrict the network operator's own use. The obligations imposed by Traficom shall be unbiased, open, non-discriminatory and proportionate.

If the parties concerned do not agree on costs related to sharing or co-location, Traficom may issue further regulations on apportioning the costs.

### **Section 55 f (1207/2020)** **Charging for telephone network call termination**

In derogation from the provisions of section 71, Traficom may, by its decision, impose on a telecommunications operator obligations relating to charging for call termination.

In derogation from the provisions of subsection 1, Traficom may, by a decision pursuant to section 55, impose on a telecommunications operator obligations relating to charging for call termination if the Commission decides not to set Union-wide maximum call termination rates. Before making the decision, Traficom shall conduct a market analysis referred to in section 52. Provisions on the principles, criteria and parameters which Traficom shall use when setting maximum rates in the relevant markets are laid down by Government decree.

Traficom shall annually report to the Commission and to BEREC with regard to the charging for call termination.

## **Chapter 8** **Obligations to Grant Access**

## **Section 56 (1207/2020)**

### **Obligation to grant access based on significant market power**

Traficom may, by a decision in accordance with section 53 or 53a, impose on an operator with significant market power an obligation to grant reasonable access to civil engineering such as grant of access to buildings, their entries and cables, masts, antennae, towers, other supporting constructions, ducts and manholes, conduits and cabinets. Traficom may impose the obligation if this is necessary for the emergence of a competitive market or it is in the end-user interest.

Traficom may impose an obligation in accordance with subsection 1 also on an infrastructure which in accordance with a market analysis in accordance with section 52 is not part of the relevant market provided that the obligation is necessary and proportionate to the objectives provided in section 1.

If the obligations imposed in accordance with subsection 1 do not sufficiently promote competition and the end-user interests, Traficom may, by a decision in accordance with section 53 or 53a, impose on an operator with significant market power an obligation to grant reasonable access other than one referred to in subsection 1 to a communications network or to an ancillary feature or service linked to a communications network or service. Traficom may impose an obligation to grant access if this is necessary for the emergence of competitive markets at the retail level or to safeguard the end-user interests. Such an access may include the following obligations:

- 1) grant access to communications networks and network elements;
- 2) grant access to communications network capacity;
- 3) provide co-location and other shared use of ancillary features, including granting access to cable ducts, equipment facilities or radio masts;
- 4) grant access to such associated services that allow the provision of a communications network or service or that support the provision of services in such a network or through such a service;
- 5) provide facilities for roaming on mobile networks and other services needed to ensure interoperability of end-to-end services to users;
- 6) offer the user the possibility to access the services of a telephone service provider available in the telecommunications area via both a selection code per call and pre-selection that may be overridden with a selection code, if necessary;
- 7) to grant access to active or virtual network elements and services;
- 8) not to withdraw access to facilities already granted;
- 9) to negotiate in good faith with undertakings requesting access;
- 10) to provide specific services on a wholesale basis for resale by third parties;
- 11) to grant other reasonable access referred to in subsection 1 comparable to those referred to in paragraphs 1-10.

Traficom may subject the obligation to grant access referred to in subsection 1 to conditions covering fairness, reasonableness and timeliness.

The obligation referred to in subsection 1 or 3 does not apply, however, if granting access endangers data protection or national security or if it is technically inappropriate from the viewpoint of the undertaking or otherwise unreasonable.

### **Section 57 - 58**

*Sections 57 - 58 were repealed by Act 1207/2020.*

### **Section 59 (1207/2020)**

#### **Own use or reasonable future needs**

Notwithstanding any obligation imposed under section 56, the obligation shall not apply if the object of the access is in the own use by the telecommunications operator or if it is necessary for its own reasonable future needs.

## **Chapter 9**

### **Interconnection**

#### **Section 60**

##### **Obligation to negotiate**

*Interconnection* means the physical and functional linking of different communications networks to ensure that users have access to communications networks and communications services of other telecommunications operators.

A network operator has an obligation to negotiate in good faith on interconnection with another network operator.

Traficom may issue further regulations on the procedures applicable to gain access and interconnection. ([1207/2020](#))

### **Section 61 (1207/2020)**

#### **Interconnection obligations of an operator with significant market power**

By a decision in accordance with section 53 or 53a, Traficom may impose an obligation on an operator with significant market power to connect a communications network to the communications network of another telecommunications operator (*interconnection obligation*). An operator shall thus negotiate on interconnection with the other network operator under terms and conditions consistent with interconnection obligations imposed on it by virtue of said decision.

Traficom may subject the interconnection obligation referred to in subsection 1 to conditions covering fairness, reasonableness and timeliness.

A telecommunications operator on which Traficom has imposed an interconnection obligation shall comply with the provisions of sections 63 and 64 unless an agreement can otherwise be reached on the content of the interconnection obligation.

### **Section 62 (1207/2020)**

Section 62 was repealed by Act 1207/2020.

## **Section 63**

### **Establishing interconnection**

Interconnection shall be established at the point specified by the network 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.

Interconnection shall be established as quickly as is technically possible.

The charge for the use of the telephone network of the network operator requesting the interconnection that is collected from the telecommunications operator with the obligation to establish the interconnection shall not be unreasonable.

## **Section 64**

### **Interconnection of international telephone networks**

International calls shall be routed to an international telecommunications service via a long-distance telecommunications service selected by the telecommunications operator providing the international service.

All providers of public international telephone services shall provide access to all local telephone services.

## **Section 65 (1003/2018)**

### **Charge for the use of a telephone network**

A telecommunications operator with an interconnection obligation 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 (*call origination*) and the connection is established:

- 1) to a toll-free number; or
- 2) to a premium-rate number.

### **(1207/2020)**

*Subsection 1 is applied from 31 December 2023.*

By a decision under section 53, Traficom may impose an obligation on an operator with significant market power to charge separately also for call origination other than that referred to in subsection 1.

A telecommunications operator with an interconnection obligation 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 from the telephone network of another telecommunications operator to the telecommunications operator's own telephone network (*call termination*).

## **Section 66**

### **Prohibition on bulk discounts**



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

## **Chapter 10** **Other obligations**

### **Section 67 (1207/2020)**

#### **Technical obligations related to the obligation to grant access**

In a decision concerning an obligation to grant access and interconnection, Traficom may impose on a telecommunications operator such technical obligations or conditions on the use of the obligation to grant access that are necessary for the technical implementation of the obligation to grant access.

### **Section 68 (1207/2020)**

#### **Obligation of non-discrimination**

By a decision in accordance with section 53 or 53a, Traficom may impose on a telecommunications operator a non-discrimination obligation regarding the granting of access or interconnection. Non-discrimination obligation means an obligation to apply the same price structure (*non-discriminatory pricing*) or terms (*non-discriminatory terms*), which treats telecommunications operators in similar situations equally. If a telecommunications operator uses a certain service itself or provides it to a subsidiary or other such party, it shall also offer an equivalent service on equivalent terms and of comparable quality to any competing telecommunications operator.

### **Section 69 (1207/2020)**

#### **Obligation of transparency**

By a decision in accordance with section 53 or 53a, Traficom may impose on a telecommunications operator an obligation to make public accounting information, terms and conditions for supply and use, technical specifications, network characteristics and their expected developments, prices and agreements concluded and other conditions with significance to granting of access or interconnection to the extent that they do not include business secrets or confidential information.

If a non-discrimination obligation referred to in section 68 has been imposed on a telecommunications operator, an obligation to publish a reference offer related to access or interconnection may also be imposed. The reference offer shall be sufficiently unbundled so that requesters of access will not have to pay for products that are not necessary for the service.

Notwithstanding the provisions of subsections 1 and 2, Traficom shall impose on a telecommunications operator an obligation to publish a reference offer if an obligation to grant access to a communications network or part thereof has been imposed on it. Traficom shall take utmost account of the BEREC guidelines and, where necessary, ensure that key performance indicators and corresponding service levels are specified.

### **Section 70 (1003/2018)**

#### **Obligation of accounting separation**

By a decision in accordance with section 53, Traficom may impose an obligation on an operator with significant market power to separate in its accounts regulated operations from the other service provision activities of the telecommunications operator if this is necessary for the monitoring of compliance with the non-discriminatory obligation.

In its decision, Traficom shall itemise the products and services that are the objects of separation, the information to be clarified by means of the accounting separation procedure and the main features of the separation procedure.

The separation calculations shall be submitted to Traficom.

## **Section 71 (1003/2018)**

### **Pricing and other terms for granting access and for interconnection**

By a decision in accordance with section 53, Traficom may impose obligations related to access and interconnection pricing on an operator with significant market power, where a market analysis in the meaning of section 52 indicates that there is no effective competition on the markets and that the operator with significant market power may therefore sustain prices at an excessively high level or apply a price squeeze to the detriment of users of communications services.

The obligation referred to in subsection 1 above may include pricing of a regulated product or service and price setting. Traficom may impose an obligation on an operator with significant market power to comply with the following with regard to granting access and interconnection:

- 1) cost-oriented pricing;
- 2) pricing based on a reduction of the retail price (retail minus); or with
- 3) fair and reasonable pricing.

A cost-oriented price means a price that is reasonable taking into account the costs of an efficient operation in producing regulated products or services. The prices available in comparable competitive markets may be taken into account in defining the cost-oriented price.

When imposing a cost-oriented pricing obligation referred to in subsection 2, paragraph 1, Traficom may also impose on an operator with significant market power an obligation to comply in the pricing of a regulated product or service the maximum price set in advance by Traficom. A maximum price may be set in cases where pricing against the pricing obligation would be detrimental to said markets and the obligation referred to in subsection 2, paragraph 1 would not be sufficient to remove barriers to competition or promote competition in these markets. The maximum price may be set for a maximum period of five years. [\(1207/2020\)](#)

The pricing obligations referred to in subsections 1–4 shall:

- 1) promote efficiency and sustainable competition in the communications markets;
- 2) create benefits for users of communications services;
- 3) be proportionate in relation to their aims;
- 4) encourage investments by the undertaking in the future; and
- 5) allow a reasonable rate of return on adequate capital employed in regulated operations taking into account any risks specific to the investment. [\(1207/2020\)](#)

## **Section 72 (1207/2020)**

Section 72 was repealed by Act 1207/2020.

### **Section 73 (1003/2018)** **Pricing clarification obligation and cost accounting**

If, under this Act or in a decision of Traficom, a cost-orientation or non-discriminatory pricing obligation has been imposed on a telecommunications operator or an undertaking referred to in section 57, subsection 2 or section 196, the undertaking 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 considered by Traficom.

Traficom does not assess the compliance with pricing regulations retroactively.

In assessing compliance with the pricing obligation, Traficom is not bound to the cost calculation principles used by the telecommunications operator.

In assessing compliance with the pricing obligation, Traficom may, in an individual case, decide on the maximum price to be charged.

### **Section 74 (1207/2020)** **Cost-accounting procedures**

Traficom may, by a decision in accordance with section 53 or 53a, impose on a telecommunications operator an obligation to implement a cost-accounting system if this is necessary in order to control the imposed cost-accounting obligation.

An undertaking may itself select the cost-accounting system it implements. Traficom may, however, under section 53 or 53a, impose on an undertaking requirements with regard to regulated products or services relating to the cost-accounting system regarding attribution of costs in main categories if this is necessary in order to control the pricing obligation imposed on the undertaking. The undertaking shall draw up for Traficom a description of its cost-accounting system that shows at least the main cost categories and the rules for the allocation of costs.

Traficom may issue further regulations on data gathered by means of the cost-accounting system, on the main cost categories and on the description of the cost-accounting system. The regulations may cover:

- 1) the information necessary to demonstrate a link between the cost-accounting procedure and pricing;
- 2) the allocation of the costs into main categories and the rules for the allocation of the costs;
- 3) the content and form of the description of the cost-accounting system;
- 4) the submission of the description of the cost-accounting system to Traficom.

### **Section 75 (1003/2018)** **Supervision of cost-accounting procedures**

An undertaking shall appoint an auditor referred to in the Auditing Act (1141/2015) to audit the cost-accounting system of the undertaking in conjunction with the audit of the undertaking. The auditor must prepare a report on the inspection. The undertaking shall publish the report and

submit it to Traficom on request by the end of August following the end of the financial period of the undertaking. [\(1207/2020\)](#)

Traficom may issue further regulations on the type of data and material that needs to be included in the auditor's report. The regulations may cover:

- 1) general information about the operator to be audited, and the auditing method;
- 2) material that shall be audited;
- 3) criteria for determining whether the operator meets the obligations imposed on its activities;
- 4) attachments to the auditor's report.

*Subsection 3 was repealed by Act 1207/2020.*

### **Section 76 (1003/2018)** **Obligation for functional separation**

By a decision in accordance with section 53, Traficom may impose an obligation on an operator with significant market power to separate an operational entity from other business activities of the telecommunications operator if important and persisting market failures have been identified in the market of the network service concerned and if the obligations imposed under section 53 have not had an impact on the competitive situation in the market.

The new operational entity created as a result of separation shall supply its services both to its parent undertaking and to competing telecommunications operators under the same non-discriminatory conditions.

Traficom shall, prior to imposing an obligation for functional separation, submit a fully reasoned draft proposal to the Commission that shall include at least the following:

- 1) evidence on important and persisting market failures in the market concerned;
- 2) evidence demonstrating that the obligations referred to in section 53 have not had an impact on the competitive situation in the market;
- 3) a reasoned assessment that there is no or little prospect of change in the competitive situation in the market within a reasonable timeframe;
- 4) an analysis of the impact of the obligation on the communications market and on the telecommunications operator subject to it;
- 5) a clarification on the exact content of the separation obligation;
- 6) a list of products and services subject to the separation obligation;
- 7) a clarification on matters related to the independency of the personnel of the new operational entity and the supervision of the telecommunications operator.

### **Section 77 (1207/2020)** **Obligation to notify a change in ownership**

An undertaking with significant market power shall inform Traficom no later than three months in advance of any intention to transfer its local access network or a substantial part of it to a separate business entity it has established or to a separate legal entity under different ownership. The undertaking with significant market power shall also notify Traficom of any change of that intent and of the final outcome of the change of ownership.

When a change of ownership referred to in subsection 1 materialises, an undertaking with significant market power may, in the procedure in accordance with section 81a, offer such acceptable and sufficiently detailed commitments regarding conditions for access applicable to its network in order to ensure effective and non-discriminatory access.

Traficom shall, after having received a notification, perform a new market analysis in the meaning of section 52 in the market related to the communications network concerned if the disposal has a significant impact on said market. When performing the market analysis, Traficom shall take into account the commitments in accordance with subsection 2.

Traficom may impose obligations in accordance with section 53 on a network subject to a change of ownership if it deems that the commitments in accordance with subsection 3 are not sufficient taking into account the purpose of the Act.

## **Section 78**

### **Deposit and security**

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

## **Section 79**

### **Collection of telecommunications fees from end-users**

A telecommunications operator that has entered into a subscriber connection agreement, and on which an interconnection obligation referred to in section 61 or 62 has been imposed, 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.

Information on the subscriber connection number 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.

## **Section 80**

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

A telecommunications operator may use information on another telecommunications operator obtained in connection with the granting of access referred to in chapters 7, 7a, 8 and 10 or interconnection referred to in chapter 9 and under section 79 only for the purpose for which it was given to the telecommunications operator. The 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. The information shall also otherwise be handled in such a way that the business secrets of another telecommunications operator are not endangered. [\(1207/2020\)](#)

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 81 (1003/2018)** **Liability for damages**

A telecommunications operator which deliberately or through negligence violates the obligations imposed under sections 53–55 is liable to compensate damage it has caused to another telecommunications operator.

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.

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.

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.

In considering the action for damages referred to in subsection 1, the court may request an opinion on the matter from Traficom.

### **Section 81 a (1207/2020)** **Commitment procedure concerning undertakings with significant market power**

Traficom may, by its decision, on application by an undertaking with significant market power, make binding, wholly or in part, commitments relating to conditions for access or investments offered by the undertaking with significant market power, which may concern:

- 1) cooperative arrangements which may have an effect on the assessment of the imposition of obligations referred to in section 53;
- 2) co-investment agreements referred to in section 81b;
- 3) changes of ownership referred to in section 77; or
- 4) other matters corresponding to paragraphs 1-3.

Traficom shall, on the basis of the application, perform a market test in particular on the terms attached to the commitment. Traficom need not perform a market test if the commitment of an undertaking with significant market power does not clearly fulfil the terms and conditions in accordance with this section.

Traficom shall, when assessing the cooperative arrangements referred to in subsection 1, paragraph 1 have particular regard to:

- 1) evidence regarding the fair and reasonable character of the commitments offered;
- 2) the openness of the commitments to all market participants;
- 3) the immediate availability of access under fair, reasonable and non-discriminatory conditions before the launch of retail services; and to
- 4) the overall adequacy of the commitments offered to enable sustainable competition and to facilitate cooperative deployment of very high capacity networks to safeguard the end-user interests.

The commitment offered by an undertaking with significant market power shall include sufficiently detailed information for performing the assessment in accordance with subsection 3.

The arrangements are made binding for a specific period. Co-investment commitments referred to in section 81 may be made binding for a period of minimum seven years. Traficom shall assess the extension of the commitments when their period expires.

Traficom shall, when performing the market analysis referred to in section 52, take into consideration the commitments it has made binding under this section.

### **Section 81 b (1207/2020)** **Co-investments in very high capacity networks**

Traficom may, by its decision, in a procedure in accordance with section 81a, make binding a co-investment agreement between an undertaking with significant market power and one or more telecommunications operators relating to a very high capacity network consisting of optical fibre elements up to the end-user premises or the base station if it meets the conditions provided in this section. Traficom may not impose obligations to be imposed under sections 53, 53a and 54 on a network under a binding co-investment agreement.

Traficom may also, in justified cases, impose on an undertaking with significant market power obligations in accordance with sections 8-10 if it establishes that the imposition of the obligations is necessary to address significant competition problems on markets due to the specific characteristics of these markets.

A precondition for the decision is that the co-investment offer meets at least the following conditions:

- 1) the co-investment offer is open, in a non-discriminatory manner, to any telecommunications operator at any moment during the lifetime of the network;
- 2) the network co-investors are allowed to compete effectively in downstream markets;
- 3) the co-investors are allowed, on fair, reasonable and non-discriminatory terms, access to the full capacity of the network that is subject to co-investment;
- 4) the co-investors may participate in the co-investment with flexibility in terms of the value and timing of the participation which may be increased in the future;
- 5) the co-investors are awarded reciprocal rights on fair and reasonable terms and conditions to the network that is subject to co-investment after its deployment;

- 6) a road map to the co-investment project is confirmed in advance in the offer;
- 7) the rights acquired in the co-investment may be transferred with the same rights; and
- 8) the offer to co-invest is made in good faith.

An undertaking with significant market power shall publish the offer to co-invest in a timely manner and undertakings other than those in accordance with section 53a that operate solely in wholesale markets at least six months before the deployment of the network. The offer to co-invest shall be published on the website of the undertaking so that it is easily identified and available. In addition, detailed information on the offer shall be made available without delay.

An undertaking with significant market power may include in the offer reasonable terms concerning the financial capacity of undertakings to participate in the co-investment.

If the co-investments replace with the earlier network of an undertaking with significant market power with new network based on optical fibre elements, undertakings which do not participate in the co-investment shall gain access to the network subject to co-investment under the same terms relating to quality, speed and end-user reach as were available in the old network before the deployment of the network subject to co-investment replacing it and which Traficom confirms with its decision referred to in subsection 1. Traficom may include in the decision in accordance with subsection 1 terms by which the quality of the access may be adapted on non-discriminatory terms taking into consideration the development of the retail markets and the maintenance of the incentives relating to co-investment.

When assessing a co-investment commitment, Traficom shall take into account the guidelines of BEREC.

Traficom may, in the co-investment agreement concerning an undertaking with significant market power, impose an obligation to submit declarations of conformity on an annual basis.

### **Section 81 c (1207/2020)**

#### **Replacement or decommissioning of a previous network of an undertaking with significant market power**

An undertaking with significant market power shall notify Traficom when it intends to decommission or replace with a new network its existing network or parts of it. The notification shall be submitted to Traficom in electronic form.

The notification shall be submitted in a timely manner and at the latest six months before the planned starting date of the decommissioning or replacement. If the timetable of the decommissioning or replacement is determined by factors beyond the control of the undertaking with significant market power, it shall notify Traficom of the intended replacement or decommissioning without delay.

The notification shall include adequate information on the undertaking with significant market power planning the replacement or decommissioning, the network to be decommissioned or demolished and on the planned measures. Further provisions on the contents of the notification and its electronic submission are issued by Government decree.



Prior to the starting date notified, Traficom may, by its decision, impose on an undertaking with significant market power obligations to apply a transparent timetable and conditions relating to notice or transition periods or other conditions when replacing or decommissioning a network if this necessary to safeguard competition and the end-user interests. If Traficom imposes the obligations referred to in this subsection by its decision, it shall make the decision on the imposition of the obligations at the latest two months before the starting date notified if the notification has been submitted to Traficom six months before the starting date notified as provided in subsection 2.

Traficom may also, prior to the starting date notified, by its decision, impose reasonable obligations to ensure that alternative products of at least comparable quality providing access to the upgraded network infrastructure substituting the replaced elements are available if this is necessary to safeguard competition and the end-user interests. The interests of competition and end-users do not require availability of alternative products especially in situations where the network to be decommissioned or replaced has not been in actual use.

With regard to the parts of the network notified to be decommissioned or replaced, Traficom may withdraw the obligations imposed under sections 53, 53a and 54 if the access provider has:

- 1) established appropriate conditions for migration by making available an alternative access product of at least comparable quality which enables the reaching of the same end-users as in the existing infrastructure or in another corresponding manner; and
- 2) complied with the conditions and procedure provided in this section and imposed by Traficom under this section.

## **Chapter 11 Procedure**

### **Section 82 (1207/2020)**

#### **Consultation on market definition, market analysis and significant market power**

Traficom shall reserve an opportunity for the Commission, BEREC and the regulatory authorities of other EEA Member 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 referred to in section 76;
- 5) a decision referred to in section 55 concerning an undertaking other than one with significant market power;
- 6) a decision concerning the withdrawal of the obligation referred to in section 270, subsection 4.

Traficom shall postpone the decision referred to in subsection 1 for two months if the Commission notifies that it considers the draft decision to be incompatible with European Union law or deems that it creates a barrier to the internal market. Traficom shall, within six months of the

Commission's notification, withdraw the decision referred to in subsection 1 or amend it if so required by the Commission.

If Traficom amends the draft decision referred to in subsection 1 on request by the Commission, Traficom shall reserve the parties whose right or interest the decision concerns an opportunity to present their statements on the amended draft decision in accordance with section 310 and submit a new notification in accordance with subsection 1 to the Commission. When issuing a final decision, Traficom shall also take utmost account of the statements referred to in subsection 1. Traficom shall notify the Commission and BEREC of the decision.

Traficom shall submit the notification in accordance with subsection 1 together with the regulatory authorities of another EEA Member State if the market definition has been drafted with the regulatory authority of the other EEA Member State in accordance with section 52, subsection 7.

### **Section 83 (1207/2020)**

#### **Consultation on an obligation to be imposed on an undertaking**

Traficom shall reserve an opportunity for the Commission, BEREC and the regulatory authorities of other EEA Member States to present their statements within a period of one month before making a decision affecting trade between EEA States by which Traficom imposes, changes or withdraws obligations referred to in chapter 7a or 8-10 imposed on the basis of significant market power or on another basis with the exception of a decision issued under section 55f or 76.

Traficom shall take utmost account of the statements referred to in subsection.

If the Commission notifies that it considers that the draft decision of Traficom referred to in subsection 1 would create a barrier to the common markets, or has serious doubts that the draft decision of Traficom is not compatible with European Union law, Traficom shall postpone the decision for three months from the Commission's notification. Traficom shall in such a case continue preparing the decision in close cooperation with the Commission and BEREC.

Within the three-month period referred to in subsection 3, Traficom may either amend its draft decision or withdraw it. If Traficom amends its draft decision or decides to keep it valid as such, the Commission may issue a recommendation for the draft decision or withdraw its notification referred to in subsection 3. Traficom shall, within a period of one month after having received the Commission's recommendation, notify the Commission and BEREC of its final decision. The time limit may nevertheless be extended if this is necessary in order to consult the parties concerned.

If Traficom decides not to amend or withdraw the decision despite the Commission's recommendation, it shall give reasons for its decision.

In derogation from the provisions of subsections 4 and 5 on the possibility of Traficom not to amend or withdraw its draft decision, Traficom shall amend or withdraw a draft decision in accordance with section 55a, subsection 3 or section 81b if the Commission by its decision so requires.

Traficom shall reserve an opportunity in accordance with subsection 1 to present a statement with the regulatory authority of another EEA Member State if the decision is prepared with the regulatory authority of the other Member State in accordance with the provisions of section 52, subsection 7.

### **Section 84 (1207/2020)**

## **Procedure in an urgent case**

Market definitions, market analyses and the decision of Traficom on significant market power and on an obligation to be imposed on a telecommunications operator may be made without consulting the Commission, BEREC and the regulatory authorities of other EEA Member States if the measure is:

- 1) urgent;
- 2) necessary to safeguard competition and the interests of consumers;
- 3) temporary; and
- 4) in correct proportion to the aim being addressed.

Traficom shall without delay notify the Commission, BEREC and the regulatory authorities of other EEA Member States of the measure referred to in subsection 1.

## **Chapter 12 Universal service**

### **Section 85 (1003/2018) Designating a universal service provider**

Universal service means the provision of public telephone services and appropriate Internet access at a fixed permanent residence or location and the provision of directory inquiry services and telephone directory services.

Traficom shall, by its decision, designate one or more telecommunications operators or operators providing a directory inquiry service as a universal service provider if this is necessary in order to ensure universal service provision in a certain geographic area. The designation procedure shall be efficient, unbiased, open and non-discriminatory. The geographical surveys in accordance with section 51a shall, where necessary, be taken into account in the designation procedure. An operator with the best possible prerequisites to provide universal service that meets the requirements shall be assigned as the universal service provider. ([1207/2020](#))

Traficom shall amend a decision referred to in subsection 2 if there are significant changes in matters on which the decision is based.

### **Section 86 (1207/2020) Universal service obligation concerning the provision of public telephone services**

A telecommunications operator that Traficom has designated as a universal service provider in public telephone services as referred to in section 85 shall provide, at a price affordable to an average user and regardless of the geographical location, a connection to the public communications network for a user or a microenterprise at the permanent place of residence or location. The telecommunications operator shall provide a connection within a reasonable period from the order.

The connection to be provided shall allow all users, including those with disabilities, to use emergency services, make and receive national and international calls and use other ordinary telephone services. The connection to be provided shall be available also without mandatory additional services or facilities.

Further provisions on the special needs of persons with disabilities are issued by Government decree. Prior to the issuance of the decree, Traficom shall, where necessary, produce a clarification on the needs.

Traficom may issue further regulations on how the connection is to be implemented technically or on technical features that the connection shall have in order to allow use by persons with disabilities.

### **Section 87 (1207/2020)**

#### **Universal service obligation concerning the provision of Internet access service**

A telecommunications operator that Traficom has designated as a universal service provider in Internet access services as referred to in section 85 shall provide, at a price affordable to an average user and regardless of the geographical location, a connection to the public communications network for a user or a microenterprise at the permanent place of residence or location. The connection to be provided shall be available also without mandatory additional services or facilities. The telecommunications operator shall provide a connection within a reasonable period from the order.

The connection to be provided shall also allow an appropriate Internet access for all users and microenterprises, taking into account the access speed enjoyed by the majority, the technical feasibility and costs. The services referred to in Annex V of Directive (EU) 2018/1972 of the European Parliament and of the Council establishing the European Electronic Communications Code, hereinafter *the Telecommunications Directive*, shall be accessible with the connection to be provided.

Provisions on the minimum speed of an appropriate Internet access are laid down by Government decree. Prior to the issuance of the decree, Traficom shall, where necessary, produce a report on the data transfer service markets, the access speed and level of technological development enjoyed by the majority of users and subscribers and produce an estimate of the financial impacts of regulation on telecommunications operators. Traficom shall in the report also take into account BEREC's report on best practices relating to defining the appropriate internet access service.

Traficom may issue further regulations on how the connection is to be implemented technically or on what technical features the connection shall have.

### **Section 88 (1207/2020)**

#### **Other obligations and rights related to providing a subscriber connection**

A universal service provider may also provide the services referred to in sections 86 and 87 through several connections if this does not cause unreasonable additional costs to the user or microenterprise.

A universal service provider is obliged to offer a subscriber who is a natural person the possibility to pay compensation for the construction of a subscriber connection referred to in sections 86 and 87 in several instalments. A universal service provider is allowed to refuse the obligation only if

there are reasonable grounds for refusal arising from solvency of a subscriber who is a natural person.

A universal service provider has the right to refuse to enter into an agreement for a connection referred to in sections 86 and 87 with a user or microenterprise that is being prosecuted or has been sentenced within the past year for disrupting communications using a telecommunications operator's connection or has outstanding, matured and indisputable debts incurred from the use of another connection provided by the universal service provider.

### **Section 89 (1003/2018)**

#### **Universal service obligation concerning the provision of directory inquiry service**

An operator that Traficom has designated as a universal service provider for directory inquiry services and telephone directory services as referred to in section 85 is obliged to provide users and subscribers access to directory inquiry services or telephone directory services that are publicly available, comprehensive and affordable to an average user.

A telephone directory may be in printed or electronic form and shall be updated at least once a year.

Traficom may issue further regulations on technical measures necessary to meet the obligation referred to in subsection 1.

### **Section 90 (1003/2018)**

#### **Universal service obligation concerning network service**

A network operator that Traficom has designated as a universal service provider as referred to in section 85 is obliged, at a cost-based price, to provide the service operator designated as a universal service provider a network service needed for connecting to a communications network.

### **Section 91 (1207/2020)**

Section 91 was repealed by Act 1207/2020.

### **Section 91 a (1207/2020)**

#### **Obligation to inform of disposal of a network**

A telecommunications operator that Traficom has designated as a universal service provider as referred to in section 85 is obliged to inform Traficom if it disposes of all or a part of a network necessary in the provision of universal service to a legal person separate from the universal service provider.

Traficom may, following the information, amend, withdraw or impose universal service obligations in accordance with section 85.

### **Section 92 (1003/2018)**

#### **Monitoring of universal service prices**

Traficom shall monitor the pricing of universal service, compare it to the general price level of communications services and assess the pricing of universal service in relation to the general consumer price level and income level of the population.

### **Section 93 (1207/2020)**

## **Net costs of universal service**

Net costs of universal service shall refer to the costs arising from the production of a service which a universal service provider cannot cover with the returns brought in by the service.

If it is evident that the provision of universal service constitutes an unreasonable financial burden to the universal service provider and if the universal service provider so requests, Traficom shall calculate the net costs of universal service. The net cost calculation principles and detailed information on the methods applied shall be publicly available.

In calculating the net costs of universal service, Traficom is not bound by the information given by the universal service provider or by its cost calculation principles.

If Traficom has calculated the net costs, it shall publish an annual report providing detailed information on the costs of the universal service obligations and identifying the contributions made by all undertakings involved and any market benefits that may have accrued to the undertaking pursuant to universal service obligations subject to national and Union rules on commercial confidentiality.

## **Section 94 (1003/2018)**

### **Compensation of costs for a universal service provider**

A universal service provider shall, from State funds, be compensated for the part of the net costs of the universal service that is deemed to constitute an unreasonable economic burden taking into account:

- 1) the size of the undertaking;
- 2) the quality of the business operations;
- 3) turnover of the telecommunications operations, directory inquiry service and telephone directory service of the undertaking; and
- 4) other elements similar to those referred to in subsections 1–3.

Compensation of the costs referred to in subsection 1 is decided by the Ministry of Transport and Communications on the basis of the net cost calculation prepared by Traficom. Compensation shall be paid retroactively for a maximum period of one year from the application.

## **PART IV SPECTRUM AND NUMBERING**

### **Chapter 13 Spectrum administration**

## **Section 95 (1207/2020)**

### **Government Decree on radio frequency usage and on the frequency plan**

The general principles on the use of frequencies referred to in subsection 3 are confirmed by Government Decree. Technology and service neutrality shall be complied with when issuing provisions on the use of frequencies suitable for the provision of communications services. The Government may, in the Decree referred to in subsection 1, derogate from:

1) technology neutrality of network and communications services if this is necessary to:

a) avoid harmful interference;

b) protect public health against electromagnetic fields;

c) ensure technical quality of the service, common use of radio frequencies or the fulfilment of public interest objectives; and

2) service neutrality if this is necessary to:

a) ensure the safety of human life;

b) promote social, regional or geographical cohesion;

c) avoid inefficient use of frequencies;

d) promote cultural and linguistic diversity and media pluralism.

The Government Decree referred to in subsection 1 shall confirm the frequency allocation plan:

1) for telecommunications requiring a network licence referred to in section 6, subsections 1 and 2 and for frequency bands intended for telecommunications referred to in section 6, subsection 4;

2) for frequency bands intended for television and radio broadcasting that requires a licence as referred to in sections 22 and 34;

3) for the frequency bands referred to in section 96, subsection 5;

4) for frequency bands intended for product development, testing and educational purposes; and

5) for frequency bands intended for public service television and radio broadcasting as referred to in section 7 of the Act on Yleisradio Oy.

Before the Government confirms a frequency plan, an opportunity shall be reserved for telecommunications operators, the Finnish Broadcasting Company Ltd and other frequency band user groups to present their views on the plan. The Government shall re-examine the frequency plan if it is possible to assign additional frequency bands for public service or activities subject to a licence as referred to in subsection 3 or if a party referred to in this subsection presents a justifiable request for re-examination.

The Ministry of Transport and Communications shall notify the Commission and the Member States of the European Union if the Government decree referred to in subsection 1 allows, in the frequency band referred to in subsection 3, an alternative use derogating from the purpose of use of frequencies harmonised in the European Union.

The use of harmonised radio spectrum in the European Union shall be allowed as soon as possible and at the latest 30 months after the technical implementing measure in accordance with the radio spectrum decision. The Government may derogate from this deadline if:

- 1) the alternative use of the frequency band is based on the general interest objective referred to in subsection 2, paragraph 2, subparagraph a or b;
- 2) the frequencies have not been coordinated with a third country and the use of frequencies would result in harmful interference; or due to
- 3) national security, defence or force majeure.

The deadline referred to in subsection 6 may be delayed up to 30 months if:

- 1) the frequencies have not been coordinated with an EU Member State and the use of frequencies would result in harmful interference; or if
- 2) it is necessary to ensure the technical migration of existing users from the frequencies.

The Government shall re-examine the derogation referred to in subsection 6 at least every two years. The Government shall inform the Commission and any EU Member State, whose frequency use may be affected, of the derogation referred to in subsections 6 and 7.

## **Section 96 (1003/2018)**

### **Traficom regulations on frequency use**

Traficom issues regulations on the use of radio frequencies for different purposes, with due consideration to the international regulations and recommendations on radio frequency use and the Government Decree issued under section 95, subsection 1. The regulations shall contain information on the intended use of frequency bands and on the most important radio-technical characteristics required of radio equipment using the frequency bands.

Traficom shall re-examine regulations issued under subsection 1, if it is possible to assign additional frequencies for the activity subject to a licence referred to in section 95, subsection 3 or if a telecommunications operator or other party representing frequency band user groups presents a justifiable request for re-examination.

When issuing regulations on the use of frequencies suitable for the provision of electronic communications services, Traficom shall comply with technology and service neutrality.

Traficom may, in the regulation referred to in subsection 1, derogate from:

- 1) technology neutrality of network and communications services if this is necessary to:
  - a) avoid harmful interference;
  - b) protect public health against electromagnetic fields;
  - c) ensure technical quality of the service, common use of radio frequencies or the fulfilment of general interest objectives; and
- 2) service neutrality if this is necessary to:
  - a) ensure the safety of human life;



- b) promote social, regional or geographical cohesion;
- c) avoid inefficient use of frequencies; and
- d) promote cultural and linguistic diversity and media pluralism.

When preparing the regulations referred to in subsection 1, Traficom must work in cooperation with the Ministry of Transport and Communications. If a regulation concerning use of an individual frequency band could have a significant effect on the general development of the communications market, the frequency plan for the frequency band in question will require confirmation by a Government Decree issued pursuant to section 95, subsection 1.

In order to promote common use of radio frequencies or for another justifiable reason, Traficom may also permit other radio communications than those which accord with the purpose of use for a radio frequency band assigned by a Government Decree issued under section 95, subsection 1 or by a regulation issued under subsection 1 if these other radio communications would not restrict the use of the frequency band for its primary purposes nor cause harmful interference in the radio communications appropriate to the primary purposes. ([1207/2020](#))

## **Section 97 (1003/2018)**

### **Special regulations regarding spectrum administration**

This Act applies to radio equipment on board Finnish vessels and aircraft and in any Finnish equipment sent into space, even when this equipment is not within Finnish territory.

Traficom issues regulations on the radio frequencies that can be used by electrical appliances, other than radio equipment, that are designed to generate radio waves and are used for scientific, industrial, medical or other corresponding purposes, and the conditions to be observed in the use of such appliances.

Traficom issues regulations concerning the construction and use of amateur radio stations and other regulations to be followed in the amateur service concerning transmission powers, spurious emissions, addressing of transmissions and unidirectional transmissions.

A radio licence whose granting provisions are laid down in section 40, a radio frequency reservation referred to in section 44, a proficiency certificate referred to in section 265, a certificate endorsement referred to in section 266, and a decision concerning a call sign of a radio station by virtue of section 304, subsection 1, paragraph 5 may be signed using a digital signature.

## **Chapter 14**

### **Numbering**

## **Section 98 (1003/2018)**

### **Telecommunications areas**

The division of Finland into telecommunications areas is regulated by Traficom.

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 99 (1003/2018)**

### **Traficom numbering regulation**

Numbers, codes and prefixes shall be distributed taking into account:

- 1) clarity and efficiency of numbering; and
- 2) international obligations regarding numbers, codes and prefixes.

Traficom may issue further regulations on numbering. Traficom may order the type of numbers, codes and prefixes that may be used in telecommunications and the purpose for which they are to be used. A regulation on numbering may also specify the geographical area of use for the numbers, codes and prefixes.

Separate provisions shall be issued on Internet domain names.

Traficom shall provide information to BEREC on numbering resources which can be used also outside the territory of Finland. ([1207/2020](#))

## **Section 100 (1003/2018)**

### **Numbering decisions**

The numbers, codes and prefixes to be issued for the use of telecommunications operators and other persons are decided by Traficom.

Numbers, codes and prefixes 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.

Traficom shall decide on the issuing of a number, code or prefix (*numbering decision*) within three weeks of receipt of an application. However, if a number, code or prefix is of exceptional economic value, the numbering decision may be made within six weeks of receipt of the application. ([1207/2020](#))

In a numbering decision, the holder of the right to use a number, code or prefix may be required to start using the number within a reasonable time.

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, Traficom 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 user interests.

A telecommunications operator that has granted the right of use for a number, code or prefix may not discriminate against other telecommunications operators with regard to numbers, codes and prefixes used to give access to their services. ([1207/2020](#))

## **Section 101 (1003/2018)**

### **Revocation of right to use a number, code or prefix**

By its decision, Traficom may revoke the right of use for a number, code or prefix if:

- 1) the holder of the right to use the number, code or prefix does not pay the numbering fee;
- 2) the use of the number, code or prefix is against the numbering decision; or if
- 3) the number, code or prefix 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, code or prefix does not rectify his conduct within a one-month deadline in spite of being requested to do so.

The right to use a number, code or prefix 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, code or prefix has been given a chance to present his or her view on the matter within a one-month deadline. A consultation is not necessary if the operator holding the access has discontinued its operations or the holder of the access has ceased to exist due to some other reason.

## **Section 102 (1003/2018)**

### **Obligations concerning telephone number portability**

A telecommunications operator shall ensure without delay that a subscriber who has entered into an agreement with the telecommunications operator may, if he or she so wishes, retain his or her telephone number when changing the telecommunications operator providing the service. The validity of a fixed-term communications service agreement concerning the telephone number shall not release a telecommunications operator from the number portability obligation. In a fixed telephone network, a subscriber number specific to a telecommunications area may only be ported within the telecommunications area.

The right of a subscriber to port a telephone number is valid at least for one month after the date of termination unless the right is renounced by the subscriber. The right of the subscriber with regard to the number to be ported shall terminate automatically upon conclusion of the porting. The transferring and receiving telecommunications operators shall inform the subscriber of the progress of the porting process. [\(1207/2020\)](#)

A telecommunications operator shall not charge a subscriber for the porting of a telephone number to another telecommunications operator. A telecommunications operator may, however, collect

from the other telecommunications operator a one-off payment if the technical process of porting 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, Traficom may decide on a maximum amount of the one-off payment.

The telephone number portability obligation referred to in subsection 1 does not apply to the telecommunications operator when the porting takes place between a fixed telephone network and a mobile communications network.

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 ported telephone numbers.

## **Section 103 (1003/2018)**

### **Technical regulations on telephone number portability**

Traficom may issue technical regulations on telephone number portability.

The regulations issued by Traficom 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 ported number;
- 4) organisation of an information service on ported telephone numbers;
- 5) other similar technical requirements for number portability comparable to those referred to in subsections 1–4;
- 6) tasks of the transferring and receiving telecommunications operators when switching the service provider;
- 7) details of the information to be provided to the subscriber on the porting process.

[\(1207/2020\)](#)

## **Section 104 (1003/2018)**

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

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

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.

Traficom may issue further regulations on technical measures necessary to meet the obligation referred to in subsection 1.

## **Section 105 (1003/2018)**

### **General international prefix**

A telecommunications operator in a telephone network shall, for its part, ensure that users are able to make international calls using the general international prefix 00.

Traficom may issue further regulations on technical measures necessary to meet the obligation referred to in subsection 1.

## **PART V**

### **RIGHTS OF SUBSCRIBERS AND USERS IN CONNECTION WITH COMMUNICATIONS SERVICES**

## **Section 106 (1207/2020)**

### **Scope and preemptory nature of provisions**

The provisions of this part may not be derogated from by agreement to the detriment of the subscriber unless otherwise provided in subsection 2.

The provisions of section 118; section 125, subsections 2–4; section 126; section 134, subsection 1; and section 135 apply to agreements to be concluded with other than consumers only unless agreed otherwise.

The provisions of section 106b; section 108a, subsections 1 and 3; section 109, subsection 2; section 112, subsection 1; section 113; section 118, subsection 2; section 119; and sections 121-124 apply in addition to consumers also on an agreement to be concluded with a microenterprise, a small enterprise and a not-for-profit organisation unless otherwise agreed on.

## **Section 106 a (1207/2020)**

### **Limitations to the scope**

With the exception of section 107, subsection 2, the provisions of this part are not applied to microenterprises which provide number-independent interpersonal communications services. However, they shall inform the subscriber thereof before the conclusion of the agreement.

The provisions of section 109, subsections 2-5 and sections 114a and 116 are not applied to number-independent interpersonal communications services.

The provisions of section 106b; section 107, subsections 3 and 4; section 109, subsections 2 and 4; section 112, subsection 1; and section 113 are not applied to machine-to-machine transmission services.

The provisions of sections 108; 112; 118; 119; 121; 122; 128; and 134 are not applied to an independent communications service provided free of charge.

## **Chapter 15**

### **Communications service agreement**

## **Section 106 b (1207/2020)**

### **Pre-contractually provided information and contract summary**

A telecommunications operator shall, prior to the conclusion of the communications service agreement, provide to the consumer the information referred to in chapter 2, section 8a or chapter 6, subsection 9 of the Consumer Protection Act (38/1978). The information shall be provided in a

clear and comprehensible manner on a durable medium. If the provision of information on a durable medium is not feasible, the telecommunications operator shall make the information available to the consumer in an easily downloadable document notified to the consumer. In that case, the telecommunications operator shall draw the consumer's attention to the importance of downloading the document for maintaining the information, future reference and unchanged reproduction.

Further provisions on the information to be provided prior to the conclusion of the communications service agreement for the implementation of Appendix VIII of the Telecommunications Directive may be issued by Government decree.

The information referred to in sections 1 and 2 shall, upon request, be provided in an accessible format for users with disabilities.

A telecommunications operator shall provide a consumer with an easily readable contract summary free of charge. The contract summary shall be drafted using a template for the contract summary to be used by providers of publicly available electronic communications services established in Commission Implementing Regulation (EU) 2018/1972 pursuant to Directive (EU) 2018/1972 of the European Parliament and of the Council. If it is impossible, for technical reasons, to provide the contract summary prior to the conclusion of the agreement, it shall be provided without delay thereafter, and the agreement shall enter into force when the consumer has confirmed his or her agreement after reception of the contract summary.

## **Section 107 (1207/2020)**

### **Terms of the agreement and publication of information**

The communications service agreements may not include any terms or limitations unfair to the consumer.

The telecommunications operator may not apply any conditions to subscribers based on nationality, place of residence or place of establishment unless such different conditions are objectively justified.

The telecommunications operator shall publish:

- 1) the standard terms of agreement;
- 2) tariff plans relating to communications services;
- 3) with regard to number-based interpersonal communications services provided, information on the availability of emergency services and on the availability of subscription-holder location information and any restrictions thereon;
- 4) with regard to number-independent interpersonal communications services provided, information on whether access to emergency services is possible;
- 5) details of products and services designed for persons with disabilities.

The information referred to in subsection 3 shall be published so that they are easily available and free of charge. The information shall also be published in an accessible format for users with disabilities.

## **Section 108 (1207/2020)**

### **Communications service agreement**

A communications service agreement between a telecommunications operator and a subscriber shall be made in writing.

Provision of information on the data speed of the internet access service and certain other information relating to the internet access service in the communications service agreement is governed by Regulation (EU) 2015/2120 of the European Parliament and of the Council laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the union, hereinafter *the EU Regulation on electronic communication in the internal market*.

## **Section 108 a (1207/2020)**

### **Bundle of services provided by a telecommunications operator**



If a telecommunications operator provides internet access services or number-based interpersonal communications services to a consumer in a bundle with other services or terminal equipment, the provisions of section 106b, subsection 4; section 107, subsections 3 and 4, section 109, subsections 1, 2 and 4; section 110a, subsection 1; section 114, subsection 4; and section 116, subsections 2, 6 and 7 apply, where applicable, to all services and terminal equipment within the bundle.

If the consumer has a statutory right to terminate the agreement regarding a service or terminal equipment included in the bundle referred to in subsection 1 on grounds that said service or terminal equipment has not been in conformity with the agreement or it has not been supplied, the consumer has the right to terminate all agreements regarding the services or terminal equipment included in the bundle.

If a telecommunications operator has concluded an agreement with a consumer on the provision of internet access services or number-based interpersonal communications services and the consumer acquires an additional service or terminal equipment related to the earlier agreement, the new agreement may not extend the initial period of validity of the agreement unless the consumer and the telecommunications operator expressly agree otherwise.

## **Section 109 (1207/2020)**

### **Duration of a communications service agreement**

A communications service agreement shall be valid until further notice unless otherwise agreed.

A telecommunications operator may enter into a time-limited agreement with the consumer for a maximum period of 24 months. A time-limited mobile telephone subscriber connection agreement to be concluded with a consumer may, however, be valid for at most 12 months.

The consumer is obliged to make payments based on the communications service agreement only after the connection has been made available.

If a time-limited agreement is automatically prolonged after the termination of the agreement period, the subscriber may, after this, terminate the agreement subject to a two-week period of notice. The telecommunications operator shall inform the subscriber of the automatic prolongation of the agreement, the means by which to terminate the agreement and give best tariff advice

before the termination of the time-limited agreement. The information shall be given on a durable medium.

A telecommunications operator shall provide to the consumer a free-of-charge and easy-to-use possibility to immediately check the expiry date of his or her time-limited mobile telephone subscriber connection agreement. The possibility shall be provided to be effected by means of a text message or another easy-to-use means that enables immediate checking. Traficom may issue further regulations on the technical implementation of the service.

## **Section 110 (1003/2018)**

### **Network neutrality**

Provisions on network neutrality are issued in the EU Regulation on electronic communication in the internal market.

Traficom may issue regulations necessary for the supervision of compliance and enforcement of the regulation referred to in subsection 1 relating to:

- 1) requirements concerning the technical characteristics, minimum quality of service requirements and other appropriate and necessary measures referred to in Article 5, paragraph 1 of the Regulation;
- 2) documentation and statistical reporting of the information referred to in Article 5, paragraph 2 of the Regulation and the form of related documents and the retention of information.

Traficom may issue further regulations on the approval of the service used to verify the quality of the internet access service referred to in Article 4, paragraph 4 of the Regulation referred to in subsection 1.

## **Section 110 a (1207/2020)**

### **Switching between internet access service providers**

When a subscriber switches between providers of internet access services, the transferring and receiving telecommunications operators are liable to ensure continuity of the service with the

exception of an interruption not exceeding one day unless technically not feasible. They shall inform the subscriber of the progress of the switching process.

Traficom may issue technical regulations regarding the continuity of the internet access service and the switching process. The regulations may cover:

- 1) the technical implementation of continuity of the internet access service;
- 2) tasks of the transferring and receiving telecommunications operators when switching the service provider;
- 3) details regarding the manner of informing the subscriber of the switching process;
- 4) other similar technical requirements for continuity of the internet access service comparable to those referred to in subsections 1–2.

The subscriber's agreement on the internet access service with the transferring service provider expires when the internet access service switching process has been completed.

## **Section 111 (1003/2018)**

### **Right to use an internal communications network**

A housing undertaking or a real estate undertaking or a similar entity that, within a real estate or between real estates, owns or manages a fixed communications network connected to a public communications network is obliged to grant on non-discriminatory terms to a telecommunications operator, which was chosen by a subscriber, access to the available capacity of an internal communications network of a real estate or a group of real estates in order to transmit communications services to the subscriber's terminal equipment inside the real estate. A telecommunications operator that has been granted access shall have the right to connect its public communications network to the internal communications network of the real estate or building.

If no agreement has been reached on the access within two months from receipt of the request for access, the parties may refer the matter to be decided by Traficom. Traficom shall make a decision within two months from the initiation of the matter.

## **Section 112**

### **Deposit, security and spending limit**

A telecommunications operator or consumer may set a reasonable spending limit in euros for the communications service. [\(1207/2020\)](#)

A telecommunications operator may require from a consumer a deposit or security for a communications service 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.

## **Section 113 (1207/2020)**

### **Duty of disclosure of a telecommunications operator**

Where communications services are billed on the basis of either time or volume consumption, the telecommunications operator shall offer the consumer a possibility to monitor free of charge the payments incurred by the use of the services. The telecommunications operator shall notify the consumer and the user of the consumer's subscription before any consumption limit included in the tariff plan is reached and when a service included in the tariff plan is fully consumed.

## **Section 114**

### **Amending an agreement**

The telecommunications operator may amend the terms, including payments, in a communications service agreement valid until further notice to the detriment of the consumer only:

- 1) on grounds specified in the agreement terms, assuming that the content of the agreement does not change essentially as a whole;
- 2) on the basis of a change in legislation or a decision by the authorities.

A telecommunications operator also has the right to make minor amendments to the agreement terms of a communications service agreement valid until further notice, provided they have no effect on the main content of the agreement.

The terms of a time-limited communications service agreement 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.

A telecommunications operator shall notify the subscriber of any changes in the agreement terms no later than one month before the amended terms enter into force. A telecommunications operator shall inform the subscriber at the same time of his or her right to give notice to terminate the agreement if the subscriber does not accept the amended agreement terms. The notification shall be given in a clear and comprehensible manner on a durable medium. If the subscriber wishes to exercise his or her right to terminate the agreement, it shall be made within three months from the notification of the telecommunications operator. In case of a machine-to-machine transmission service, this subsection applies only to agreements concluded with consumers, microenterprises, small enterprises and not-for-profit organisations. ([1207/2020](#))

## **Section 115**

### **Closure of a communications service or restriction on its use**

A telecommunications operator has the right to restrict the use of a communications service or to close it if the subscriber has not paid a matured payment for that service.

The closure or restriction right does not apply, however, if:

- 1) the matured payment is less than EUR 50;
- 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 or her control, and the matured payment is paid within one month from the date on which a request for payment is sent;
- 5) the subscriber submits a complaint about the bill before the due date and pays the undisputed part of the bill by the due date.

A telecommunications operator also has the right to close a communications service or restrict its use if:

- 1) the subscriber is declared bankrupt or a public authority has found him or her to be otherwise insolvent and the subscriber does not set a reasonable security;
- 2) the subscriber does not comply with the other agreement terms, despite a request to do so; or
- 3) the subscriber or user has been charged with a disruption of communications using a subscriber connection.

A telecommunications operator also has the right to restrict the use of a communications service if the user exceeds the spending limit referred to in section 112, subsection 1. The telecommunications operator shall inform the user in advance of restricting the use and shall instruct the user on how to prevent the restriction.

A telecommunications operator shall have the right not to connect calls or otherwise bar the use of such a communications service if it is evident that the service seeks unlawful financial benefit and if fees resulting from the service accumulate on the subscriber's communications service bill.

The provisions in this section regarding a telecommunications operator's right to prevent the use of a communications service does not limit the operator's obligation to restrict such use by competent authority or court decision.

## **Section 116 (1207/2020)**

### **Terminating an agreement**

A consumer may terminate a communications service agreement orally or in writing. The consumer has the right at any time to terminate an agreement valid until further notice at two weeks' notice.

The subscriber has the right to terminate a communications service agreement at two weeks notice if a telecommunications operator notifies that it is amending the agreement terms to the detriment of the subscriber. The subscriber shall not have a right to terminate a time-limited communications service agreement if the amendments result from legislative changes.

The telecommunications operator shall send the consumer a written confirmation of the termination notice.

A telecommunications operator shall cancel a communications service agreement in writing.

A consumer has, despite being party to a time-limited agreement, the right to terminate the agreement as of two weeks from giving notice of the termination, if he or she has financial difficulties due to sickness, unemployment or some other similar reason which cannot be attributed to him or her, or if keeping the agreement valid is unreasonable for the consumer for some other special reason.

If the subscriber has, under subsection 2 or 5, the right to terminate a time-limited agreement prior to expiry of the agreement period, the telecommunications operator may not collect from the subscriber fees relating to the unused agreement period with the exception of a compensation for the bundled terminal equipment retained by the subscriber. If the subscriber wished to retain the bundled terminal equipment, the telecommunications operator may not collect a compensation that exceeds its pro rata temporis value or the fee until the end of the agreement period.

The telecommunications operator shall lift all restrictions relating to the use of terminal equipment at the latest when the compensation referred to in subsection has been paid to the telecommunications operator. The consumer shall not be charged for the lifting of the restriction.

In case of a machine-to-machine transmission service agreement, subsections 2, 6 and 7 apply only to agreements concluded with consumers, microenterprises, small enterprises and not-for-profit organisations.

## **Section 117**

### **Cancelling an agreement**

The subscriber may cancel a communications service agreement due to a defect or delay by the telecommunications operator if the breach of agreement is considerable. The subscriber may cancel a communications service agreement orally or in writing.

The telecommunications operator has the right to cancel a communications service agreement if the communications service has been closed under section 115 for at least one month and the reasons for closure still apply. ([1207/2020](#))

A telecommunications operator shall cancel a communications service agreement in writing.

## **Section 118**

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

Delivery of a communications service is deemed delayed, if the service has not been delivered at the agreed time for reasons that are not attributable to the subscriber or user.

The subscriber is obliged to make payments based on the communications service agreement only after the connection has been made available to the subscriber. After the service connection is available, the consumer has the right to refrain from paying amounts of the payment that are necessary to ensure standard compensation for the delay and damages. ([1207/2020](#))

## **Section 119 (1207/2020)**

### **Standard compensation**

In case a delivery is delayed as referred to in section 118, a consumer has the right to a standard compensation. The minimum amount of the compensation is EUR 20 for each full or partial week of delay but not more than EUR 160.

The right to a standard compensation does not, however, apply, if the telecommunications operator proves that the delay is due to an obstacle beyond its control which it cannot reasonably



be expected to have considered when entering into the agreement, and the consequences of which could not have been reasonably avoided or overcome.

If the delay is due to a person who has been of help to the telecommunications operator in fulfilling the agreement or part thereof, the telecommunications operator is discharged from liability only if the person in question was also free of liability in accordance with subsection 2.

## **120 § (1003/2018)**

### **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. The delivery of a communications service is defective, if:

- 1) the quality of the communications service does not meet the requirements set in the Act or in Traficom regulation issued under it;
- 2) the delivery of the communications service has been continuously or repeatedly interrupted for a reason other than that referred to in subsection 2 and the interruption cannot be deemed insignificant considering the reason and circumstances; or
- 3) the communications service does not match the marketing information or differs from what a subscriber can normally expect from a similar service.

A communications service is not deemed defective, if a telecommunications operator temporarily, without the consent of the subscriber interrupts the communications service or limits its use for a total of not more than 24 hours per calendar month if the interruption is necessary due to a construction or maintenance work or for reasons of information security. Interference to the user caused by the interruption must be in terms of its manner and timing as minor as possible. The interruption must be effectively communicated.

## **Section 121 (1207/2020)**

### **Remedying a defect**

The telecommunications operator is obliged to 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 detriment to the operator. When assessing whether the costs and detriment are unreasonable, special attention shall be paid to the significance of the defect and the value of the performance if it were in accordance with the agreement.

Even if the consumer would not require that the defect be remedied or a defective performance be redelivered, the telecommunications operator may, at its own expense, do this if it offers to do so immediately after the consumer has notified of the defect. The subscriber may refuse rectification of the defect if it would cause considerable inconvenience or involve a threat of uncompensated costs to the consumer, or for another special reason.

The telecommunications operator shall not invoke the fact that it did not have a chance to rectify the defect if the consumer has rectified the defect and if, considering the circumstances, it cannot reasonably be expected that the consumer would have waited for the telecommunications operator's rectification.

## **Section 122 (1207/2020)**

### **Price reduction and standard refund**

If the defect cannot be rectified or a new delivery is not possible or if such a rectification is not made within a reasonable time after the consumer has notified of the defect, the consumer has the right to a price reduction proportionate to the defect.

If a defect is based on an interrupted delivery referred to in section 120, the consumer has the right to a standard refund. The minimum amount of the refund is EUR 20 for each full or partial week of interruption but not more than EUR 160. If a standard refund is paid to the consumer, the consumer has no right to a price reduction referred to in subsection 1 for the same interruption.

The right to a standard refund does not, however, apply, if the telecommunications operator proves that the interruption is due to an obstacle beyond its control which it cannot reasonably be expected to have considered when entering into the agreement, and the consequences of which could not have been reasonably avoided or overcome.

## **Section 123 (1207/2020)**

### **Liability for damages**

The consumer has the right to a compensation for damages suffered from a delay, interruption or other defect in the communications service. If the consumer has the right to the standard compensation referred to in section 119, the right to damages is limited only to damages exceeding the amount of the standard compensation paid.

A telecommunications operator is liable for consequential damages suffered from a delay, interruption or other defect in the communications service only if the damage was caused by negligence on the part of the telecommunications operator. Consequential damages include:

- 1) loss of income for the consumer caused by a delay, interruption or by measures resulting from them;
- 2) damages caused by obligations under 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 124 (1207/2020)**

### **Obligation to notify a defect or delay**

A consumer may not invoke 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 consumer may not invoke 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.

Notwithstanding subsection 1, a consumer may invoke a defect or delay if the telecommunications operator has acted with gross negligence or in a dishonourable and unworthy manner, or if the communications service does not conform to the requirements of law or a Traficom regulation issued under it.

## **Section 125**

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

A telecommunications operator shall close a communications service or prevent its use without delay if the subscriber, user, the police, an insurance company or another telecommunications operator reports that a device used in managing communications service has been lost, that it is in someone's unlawful possession or has been unlawfully used and requests that the communications service be closed or its use prevented.

The subscriber can be held responsible for unlawful use of a communications service only if the disappearance, unlawful possession or unlawful use of the device is due to the subscriber's or user's more than slight negligence.

The subscriber shall not be held responsible for unlawful use of a communications service insofar as the communications service has been used after the subscriber or user has notified the telecommunications operator as referred to in subsection 1.

The provisions of this section shall be applied unless otherwise provided in the Payment Services Act (290/2010). ([900/2017](#))

## **Section 126**

### **Reopening a closed communications service**

On the request of the subscriber, the telecommunications operator shall reopen a communications service closed under sections 115 or 125 or remove a restriction on use as soon as the restriction on the use or closure of the service is no longer justified.

The telecommunications operator has the right to charge a reasonable fee for reopening a communications service or for removing a restriction on its use. The operator shall not, however, charge for removing a restriction on use referred to in section 115, subsection 4.

## **Section 127**

### **Obligation of a telecommunications operator to restrict the use of a communications service**

A telecommunications operator with a communications network or its elements 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:

- 1) the requirements under section 115 are met; and
- 2) the telecommunications operator requesting the barring is not itself able to bar the use of its communications service.

## **Section 128**

### **Joint responsibility of the telecommunications operator, service provider and seller**

A consumer who has the right to refrain from paying or receive a refund, compensation or other payment from a business operator due to the operator's breach of contract shall have the same right in relation to the telecommunications operator that has charged the consumer for a commodity. However, the telecommunications operator shall not be required to pay the consumer more than what it has received in payments from the consumer.

If the agreement about the commodity is terminated, the user may argue termination in relation to the telecommunications operator that charged the fee for the commodity.

A telecommunications operator that has paid a consumer pursuant to this section has the right to collect the amount paid from a business operator or telecommunications operator that has an agreement with the business operator.

## **Section 129 (1207/2020)**

### **Provision of information on prices and changes in numbering**

A telecommunications operator shall, at least once annually, provide the subscribers with information on the best tariffs for communications services.

A telecommunications operator shall in an efficient manner and in good time provide subscribers with information on changes in numbering relating to the telephone network.

## **Section 130 (1207/2020)**

### **Obligation to publish information on service quality**

Providers of internet access services and of publicly available interpersonal communications services shall publish up-to-date information on the quality and characteristics of the services offered by the undertaking and on the suitability of the services to users with disabilities.

The measures to ensure the quality of the services of a telecommunications operator shall be taken pursuant to *the EU Regulation on electronic communication in the internal market*.

Traficom issues a regulation on the information to be published referred to in subsection 1 and on the manner of its publication taking into account the guidelines of BEREC.

## **Chapter 16**

### **Special provisions relating to internet access services and number-based communications services (1207/2020)**

#### **Section 131**

##### **Automatic call forwarding**

If a subscriber so requests, a telecommunications operator shall, at no charge, remove any automatic call forwarding to the user's subscriber connection that has been placed by a third party.

#### **Section 132 (1003/2018)**

##### **Subscriber connection identification**

A telecommunications operator shall offer a calling line identification service for identification of incoming calls prior to answering. It must be possible to prevent displaying the caller's number on the receiving subscriber's telephone.

A telecommunications operator offering a calling line identification service shall offer subscribers an easy way of barring:

- 1) identification of his or her subscriber connection;
- 2) identification of the subscriber connections of incoming calls;

3) reception of calls whose subscriber connection identification is barred, if this is technically possible without undue cost; and

4) identification of the subscriber connection to which incoming calls have been forwarded.

The services referred to in paragraphs 1, 2 and 4 of subsection 2 must be free of charge to the subscriber.

A telecommunications operator offering a calling line identification service shall offer the user an easy way of barring subscriber connection identification separately for each outgoing call, at no charge.

A telecommunications operator shall notify subscribers and users of the services referred to in this section.

A telecommunications operator shall ensure that the barring functions referred to in subsections 2 and 4 can be bypassed when disclosing data to emergency services authorities under section 321 or when complying with the right of the police to access information under separate provisions. Information to be saved pursuant to section 157 shall be only disclosed to authorities that by law have a right to them.

Traficom may issue technical regulations concerning the bypassing of the barring of subscriber connection identification referred to in subsections 2, 4 and 6.

### **Section 133 (1207/2020)**

Section 133 was repealed by Act 1207/2020.

### **Section 134 (1003/2018)**

#### **Bill itemisation and connection-specific itemisation**

A telecommunications operator shall, without charge or request, provide itemised bills on the use of the subscriber connection. 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 basic rates;
- 6) SMS, picture messages and other messages;
- 7) data transfer services;
- 8) services provided at additional charges as referred to in subsection 2.

For services at additional charges referred to in subsection 1(8), the telecommunications operator shall indicate in the itemised bill:

- 1) the amount charged, time and recipient in connections related to payment transactions within the scope of application of the Payment Services Act;
- 2) the amount charged, time and recipient in connections related to the payment for a commodity or service in an automatic service outside the scope of application of the Payment Services Act and for which the subscriber incurs mainly charges that do not result from use of the communications service;
- 3) service types other than connections referred to in subsections 1 and 2, resulting in charges other than from use of the communications service.

The data referred to in subsection 2 shall not contain data related to communications subject to privacy protection.

Upon request by the user, the telecommunications operator shall provide the itemised bill free-of-charge. Unless otherwise provided in subsections 2 or 3, such an itemisation shall be provided in a



form where the last three digits of the phone number are obscured or the itemisation otherwise rendered such that the other party of the communication cannot be identified.

A telecommunications operator shall, if the user so requests, release the call itemisation of a bill with the complete phone numbers or other traffic data of communications service of the parties to the communication. Minors under the age of 15 are represented by their guardian. In addition, provisions on the representation of a minor are laid down in the Act on Child Custody and Right of Access (361/1983). Legally incompetent persons other than minors shall be represented by their guardian. Provisions on the representation of an incompetent person referred to above are laid down in the Guardianship Services Act (442/1999).

Free-of-charge services shall not be indicated in an itemised bill. The subscriber has the right to obtain a non-itemised bill on request.

Traficom may issue further regulations concerning the content and implementation of itemisation referred to in this section.

### **Section 134 a (1207/2020)**

#### **Refund of remaining credit when switching a service provider**

If a consumer has paid for services up front, the transferring telecommunications operator shall refund, upon request of the consumer, any remaining credit when the consumer switches the service provider. A telecommunications operator may collect a fee for the refund only if so provided in the communications services agreement. The fee may be at most the amount of the actual costs incurred by the telecommunications operator.

### **Section 135 (1003/2018)**

#### **User's right to restrict the use of a subscriber connection for purposes other than the receipt of a communications service**

On the request of the subscriber, the telecommunications operator shall, without compensation, bar the use of a subscriber connection for purposes other than a communications service and call origination to a specific traffic type if the barring is technically easy to implement. If the barring is later removed on the request of the subscriber, the telecommunications operator may charge a fee for doing so.

Traficom may issue further regulations on the barring services which the consumer shall at least be offered, the technical implementation of the barring services and the call charge information.

A telecommunications operator has the right to bar the use of a service other than a communications service if:

- 1) the subscriber does not pay a matured bill for the other service within two weeks of the date on which the request for payment was sent;
- 2) the subscriber exceeds the spending limit referred to in section 112;
- 3) this is necessary to prevent misuse and damages.

The telecommunications operator shall notify the subscriber without delay about the barring of use referred in subsection 3.

A telecommunications operator shall have the right not to connect calls or otherwise bar the use of a service other than communications service if it is evident that the service seeks unlawful financial benefit and incurs charges for the subscriber.

## **PART VI**

### **CONFIDENTIALITY OF COMMUNICATIONS AND PROTECTION OF PRIVACY**

#### **Chapter 17**

#### **Processing of electronic communications, traffic data, and information on offences (1266/2018)**

#### **Section 136**

#### **Confidentiality of communications and traffic data**

Parties to communication are entitled to process their own electronic communications and the related traffic data unless otherwise provided by law.

Radio communication intended for public reception and its traffic data may be processed unless otherwise provided by law. The following is considered such radio communication:

- 1) television and radio broadcasting;
- 2) distress signals;
- 3) radio communications using a public calling channel;
- 4) amateur radio service;
- 5) shortwave radio communications in the 27 MHz frequency band;
- 6) radio communications other than that referred to in subsections 1–5 intended for public reception.

Other electronic communications and traffic data may be processed with the consent of the party to the communication or if so provided by law.

Whoever receives or obtains in any other way knowledge of electronic communications, radio communication or traffic data not intended for him or her shall not disclose or make use of the content or traffic data of such communications, or the knowledge of its existence, without the consent of a party to the communication, unless otherwise provided by law.

Notwithstanding the provisions of subsection 3, radio communications or its traffic data may be processed statistically using automatic data processing in the case of:

- 1) radio communications relating to remote control of a model aircraft or an unmanned aerial vehicle;
- 2) radio communications for the purposes of establishing or maintaining a connection between terminal equipment and a wireless local area network or a mobile communications network.

[\(456/2016\)](#)

*Subsection 5 added by Act 456/2016 is temporarily in force from 20 June 2016 to 20 June 2021.*

The radio communications referred to above in subsection 5 or their traffic data may be processed only if individual natural persons cannot be identified during the processing or from its result. ([456/2016](#))

*Subsection 6 added by Act 456/2016 is temporarily in force from 20 June 2016 to 20 June 2021.*

## **Section 137**

### **General processing principles of a communications provider**

Processing electronic communications and traffic data is only allowed to the extent necessary for the purpose of such processing and must not limit the confidentiality of communications or the protection of privacy any more than is necessary.

Electronic communications and traffic data may only be disclosed to those parties entitled to process them in the given situation.

After processing, electronic communications and traffic data must be destroyed or rendered such that they cannot be associated with the subscriber or user involved, unless otherwise provided by law.

Electronic communications and traffic data may only be processed by a person acting on behalf of a communications provider or a subscriber for the purpose of processing electronic communications and traffic data for the purposes separately laid out in this chapter.

## **Section 138**

### **Processing for the conveyance of communications and for the purposes of performing a service and ensuring information security**

Messages and traffic data may only be processed to the extent necessary for the conveyance of communications, performance of the agreed service, and for the purpose of ensuring information security as provided in section 272.

When providing a service referred to in subsection 1 communications providers and providers of value-added service shall inform subscribers or users about what traffic data are processed and how long the processing will last.

## **Section 139**

### **Processing for billing purposes**

Communications service providers may process traffic data necessary for determining payments among themselves and for billing purposes.

An information society service provider may process traffic data received from a telecommunications operator which is necessary for the billing of image recordings, sound recordings and other services subject to a charge offered over a communications network administered by that telecommunications operator, and any other data necessary for billing. Information society service providers are entitled to obtain this data from telecommunications operators.

Billing-related data must be stored for a minimum of three months from the due date of the bill or the saving of the traffic data, whichever is later. Such data may not, however, be stored beyond the time the debt becomes statute-barred under the Act on Statute-Barred Debt (728/2003). However, in the case of a dispute over a bill, the data pertaining to that bill must be stored until the matter has been settled or resolved and entered into legal force.

Communications providers shall inform subscribers or users about what traffic data are processed and how long the processing will last.

## **Section 140**

### **Processing for marketing purposes**

A communications provider may, for the purpose of marketing its services, process traffic data to such an extent and for such a period of time as the marketing requires if the subscriber or user to whom the data relates has given consent thereto.

The party giving such consent must have the opportunity to withdraw his or her consent regarding the processing of traffic data.

## **Section 141**

### **Processing for the purposes of technical development**

Communications providers may process traffic data for the purposes of technical development of conveyance of communications or communications services.

Prior to the start of the processing referred to in subsection 1, subscribers or users shall be informed of what traffic data are to be processed and how long the processing will last. This can be a one-off notification.

## **Section 142**

### **Processing for the purposes of statistical analysis**

For the purposes of statistical analysis, automatic data processing may be used by a communications provider for processing traffic data if:

- 1) the analysis cannot be made by any other means without undue difficulty; and
- 2) no individual natural person can be identified in the analysis.

Provisions of subsection 1 shall also apply to a subscribing legal person's right to process the traffic data related to its subscription and terminal device.

## **Section 143 (1003/2018)**

### **Right to process data in cases of misuse**

A communications provider may process traffic data for detecting, preventing or investigating any non-paying use of services subject to a charge or similar cases of misuse.

Traficom may issue further regulations on the technical implementation of the processing of traffic data referred to in subsection 1.

## **Section 144**

### **Processing for the purpose of detecting a technical fault or error**

A communications provider may process traffic data if this is necessary for the purpose of detecting, preventing or investigating a technical fault or error in the transmission of communications.

## **Section 145 (1003/2018)**

### **Recording information on data processing**

A communications provider shall record a detailed event information on processing of traffic data in data systems containing traffic data essential to confidentiality and protection of privacy, if this is technically feasible without unreasonable cost. This event information must show the time and duration of the processing and the person performing the processing. The event information shall be stored for two years from the date on which it was recorded.

Traficom may issue further regulations on the technical implementation of the saving and storing referred to in subsection 1.

## **145 a (1266/2018)**

### **Right of a telecommunications operator to process personal data relating to offences**

When a telecommunications operator processes personal data in accordance with Article 6, paragraph 1, subparagraph f of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) for the purposes of its legitimate interests, the telecommunications operator has the right to process data that are necessary to prevent damage to the telecommunications operator, its customers or other telecommunications operators concerning offences against the business operations of telecommunications operators and identity theft involving the customers of telecommunications operators.

A telecommunications operator may record and disclose data on criminal convictions to another telecommunications operator for the purposes in accordance with subsection 1 on the following offences:

- 1) fraud and aggravated fraud;
- 2) means of payment fraud;
- 3) identity theft;

4) dishonesty by a debtor and aggravated dishonesty by a debtor;

5) fraud by a debtor and aggravated fraud by a debtor.

The necessary data referred to in subsection 1 are:

1) the name of the person convicted of an offence and his or her personal identity code or, if not available, date of birth or address;

2) the name of the court, the date of issue and diary number of the decision;

3) the culpable offence and the date when the offence was committed.

The recorded data shall be removed without delay if the criminal conviction is annulled or revised or they shall be corrected if a criminal conviction is amended. The data shall, however, be deleted at the latest five years following the first recording of the data. In addition, the measures referred to in section 6, subsection 2 of the Data Protection Act (1050/2018) to safeguard the rights of the data subject shall be applied.

## **Chapter 18**

### **Special Provisions for Corporate Subscribers**

#### **Section 146**

##### **A corporate subscriber's right to process data in cases of misuse**

A corporate subscriber has the right to process traffic data to prevent or investigate unauthorised use of fee-based information society services, a communications network or service, or to prevent and investigate the disclosure of business secrets referred to in chapter 30, section 11 of the Criminal Code as provided in sections 147–156 of this Act. ([606/2018](#))

Unauthorised use of a communications network or service may include installation of a device, software or service in the communications network of a corporate subscriber, unlawfully providing a third party with access to the communications network or service of a corporate subscriber, or



any other comparable use of a communications network or service if it contradicts the instructions provided in section 147, subsection 3.

The right referred to above in subsection 1 does not apply to the traffic data of telephone services in a fixed or mobile network.

## **Section 147**

### **A corporate subscriber's duty of care in cases of misuse**

Before starting to process traffic data and in order to prevent unauthorised use of information society services or communications network or services liable to charge, a corporate subscriber shall:

- 1) restrict access to its communications network and service and to their use and take other steps in order to protect the use of its communications network and service with the help of appropriate information security measures;
- 2) define the type of electronic communications that may be transmitted and searched through its communications network and how its communications network and service may be used and the addresses to which no communications may be sent.

In order to prevent business secrets from being disclosed, a corporate subscriber shall, before starting to process traffic data:

- 1) restrict access to business secrets and take other steps to protect the use and data of its communications network and service with appropriate information security measures;
- 2) define how business secrets may be transferred, delivered or otherwise handled in a communications network and define the type of target addresses to which communications may not be sent by people authorised to handle business secrets.

### **(606/2018)**

A corporate subscriber shall provide the users of a communications network or service with written instructions on preventing misuse referred to in subsections 1 and 2.

## **Section 148**

### **A corporate subscriber's duty of planning and cooperation in cases of misuse**

A corporate subscriber shall, before starting to process traffic data referred to in section 146, subsection 1, name the people whose duties involve traffic data processing or define the duties involved. Traffic data may only be processed by people responsible for maintenance and information security of a corporate subscriber's communications network or service and by people responsible for security.

If the corporate subscriber is an employer that falls within the scope of cooperation legislation, it shall:

- 1) discuss the reasons and procedures to be followed in traffic data processing referred to in sections 146–156 in a cooperation procedure referred to in chapter 4 of the Act on Cooperation within Undertakings (334/2007), in the Act on Cooperation within Government Agencies (1233/2013), and in the Act on Cooperation between the Employer and Employees in Municipalities (449/2007);
- 2) inform employees or their representatives about the decisions taken regarding traffic data processing as provided in section 21, subsection 2 of the Act on the Protection of Privacy in Working Life (759/2004).

If the corporate subscriber is an employer that does not fall within the scope of cooperation legislation, it shall consult the employees about issues referred to in subsection 2, paragraph 1 of this section and inform the employees about them as provided in section 21, subsection 1 and 2 of the Act on the Protection of Privacy in Working Life.

If the corporate subscriber is not the employer, it shall inform the users of the procedures to be followed in traffic data processing referred to in sections 146–156.

## **Section 149**

### **A corporate subscriber's right to process data for investigating unauthorised use of a fee-based information society service, communications network or communications service**

A corporate subscriber may process traffic data with the help of an automatic search function that may be based on the size, aggregate size, type, number, connection mode or target addresses of the communications.

A corporate subscriber may process traffic data manually, if there are reasonable grounds to suspect that a communications network, communications service or an information society service subject to a fee is used against the instructions referred to in section 147, subsection 3 and if:

- 1) a deviation in communications has been detected by the automatic search;
- 2) the costs of using an information society service subject to a fee have risen to an unusually high level;
- 3) a communications network is detected to use an unlawfully installed device, software or service; or if
- 4) in an individual case, some identifiable circumstance comparable to subsections 1–3 leads to the conclusion that a communications network, communications service or a fee-based information society service is used against the instructions referred to in section 147, subsection 3.

A requirement for the processing referred to in subsections 1 and 2 above is that the event or act would probably cause significant hindrance or damage to the corporate subscriber.

A further requirement for the processing referred to in subsection 2 above is that the data are necessary for investigating the unauthorised use and the parties responsible for it and for ending the unauthorised use.

## **Section 150**

### **A corporate subscriber's right to process data to investigate disclosure of business secrets (606/2018)**

A corporate subscriber may process traffic data with the help of an automatic search function that may be based on the size, aggregate size, type, number, connection mode or target addresses of the electronic communications.

A corporate subscriber may process traffic data manually if there are reasonable grounds to suspect that a business secret has been disclosed to a third party without authorisation via a communications network or communications service, and if:

- 1) a deviation in communications has been detected by the automatic search;
- 2) a business secret is published or used without authorisation; or if
- 3) in an individual case, some identifiable circumstance comparable to subsections 1 or 2 leads to the conclusion that a business secret has been disclosed to a third party without authorisation.

[\(606/2018\)](#)

The requirement for the processing referred to in subsections 1 and 2 above is that the suspected disclosure of business secrets is directed at business secrets of major significance to the corporate subscriber's or its cooperation partner's business or at the results of technological or other development work likely to be important for establishing or practising a livelihood. [\(606/2018\)](#)

A further requirement for the processing referred to above in subsection 2 is that the data are necessary for investigating the disclosure of the business secret and the parties responsible for it. [\(606/2018\)](#)

## **Section 151**

### **Special restrictions to the right to process data in cases of misuse**

An automatic search may not be targeted and traffic data may not be searched or manually processed for finding out data referred to in chapter 17, section 20, subsection 1 of the Code of Judicial Procedure. [\(758/2015\)](#)

In order to investigate the disclosure of business secrets, a corporate subscriber that is an employer may only process the traffic data of users to whom the corporate subscriber has provided access or who through some other means accepted by the corporate subscriber have access to business secrets. [\(606/2018\)](#)

## **Section 152**

### **A corporate subscriber's obligation to inform the user in cases of misuse**

A corporate subscriber shall draw up a report of manual processing of traffic data referred to in section 149, subsection 2 and section 150, subsection 2 indicating:

- 1) the grounds for the processing, and the time and duration of the processing;
- 2) the reason for using manual processing of traffic data;
- 3) names of the processors involved;
- 4) name of the individual who has made the processing decision.

Individuals involved in the processing shall sign the report. The report shall be kept for at least two years from the end of the processing referred to in sections 149 or 150.

A report referred to in subsection 1 above shall be delivered to the user of the communications network or service involved as soon as it is possible without endangering the purpose of the processing itself. No report needs to be delivered, however, to users whose traffic data have been processed as mass data so that the processor did not gain knowledge of the traffic data. Notwithstanding confidentiality requirements, the user has the right to submit the report and the related data for the purpose of managing matters related to the user's interests or rights.

### **Section 153**

#### **A corporate subscriber's obligation to inform the employees' representative in cases of misuse**

If the corporate subscriber is an employer, it shall draw up an annual report to the employees' representative of manual processing of traffic data referred to in section 149, subsection 2 and section 150, subsection 2, showing the grounds for and the number of times of traffic data processing during the year.

A report referred to in subsection 1 above shall be delivered to a local union representative elected on the basis of a collective agreement or a collective agreement for civil servants, or, if no local union representative has been elected, to an elected representative referred to in chapter 13, section 3 of the Employment Contracts Act (55/2001). If the employees of a personnel group have

not elected a representative or a local union representative, the report shall be delivered to a cooperation representative referred to in section 8 of the Act on Cooperation within Undertakings, or to a cooperation representative referred to in section 3 of the Act on Cooperation between the Employer and Employees in Municipalities, or to a representative referred to in section 6, subsection 2 of the Act on Cooperation within Government Agencies. If these have not been elected either, the report shall be delivered to all employees of the personnel group in question.

Employee representatives and employees referred to in subsection 2 shall treat any business secret infringements and suspected business secret infringements brought to their attention as confidential throughout their employment relationship. The provisions laid down in the Act on the Openness of Government Activities and elsewhere in law shall apply to secrecy obligation of public servants. Notwithstanding the provisions above, information may be disclosed to the supervision authorities. ([606/2018](#))

## **Section 154**

### **Prior notification and annual report to the Data Protection Ombudsman in cases of misuse**

A corporate subscriber shall inform the Data Protection Ombudsman in advance of processing traffic data. A prior notification shall explain:

- 1) the grounds and procedures for the measures to be followed in processing traffic data referred to in sections 149 and 150;
- 2) the duties referred to in section 148, subsection 1;
- 3) the way in which the corporate subscriber has met its obligation to provide information before the processing referred to in section 148, subsection 2, paragraph 2 or in subsection 3.

A corporate subscriber shall inform the Data Protection Ombudsman annually of manual processing of traffic data after the processing has taken place. The report shall reveal the grounds for and the number of times of traffic data processing during the year.

## **Section 155**

### **A corporate subscriber's right to store traffic data in cases of misuse**

The provisions of sections 146–154 do not provide a corporate subscriber the right to store traffic data in its registers longer than laid down in law.

## **Section 156**

### **A corporate subscriber's right to forward data in cases of misuse**

Notwithstanding the provisions of section 137, a corporate subscriber has the right, in connection with a report of an offence or a request for an investigation it has filed as an injured party, to forward to the police for investigation traffic data regarding the electronic communications of a user of a corporate subscriber's communications network or service that has been received in accordance with sections 146–155.

## **Chapter 19**

### **Information related to official activities**

## **Section 157 (1003/2018)**

### **Obligation to store data for the purposes of the authorities**

Notwithstanding the provisions of this part on the processing of traffic data, a telecommunications operator designated by a separate decision of the Ministry of the Interior (*operator under the retention obligation*) shall ensure, under the conditions prescribed below, that data under the retention obligation as referred to in subsections 2 and 3 are retained in accordance with the retention times laid down in subsection 4. The retention obligation does not apply to telecommunications of minor significance. The data to be retained may be used only for the purposes of solving and considering charges for criminal acts referred to in chapter 10, section 6, subsection 2 of the Coercive Measures Act (806/2011). ([1207/2020](#))

The retention obligation applies to data related to:

- 1) a telephone service or SMS service provided by an operator under the retention obligation including calls for which a connection has been established but the call remains unanswered or is prevented from being connected due to network management measures;

2) Internet telephone service provided by an operator under the retention obligation, meaning service provided by a service operator enabling calls that are based on Internet protocol through to the end customer;

3) Internet access service provided by an operator under the retention obligation.

In services referred to in subsection 2, paragraphs 1 and 2 above the retention obligation applies to the name and address of a registered user or a subscriber, subscription identifier and data that can be used to identify a communications service user or communications, including call transfers, according to the type, receiver, time and duration of communications. With regard to service referred to in subsection 2, paragraph 1 the retention obligation applies to data that can be used to identify the device used and the location of the device and the subscriber connection it uses in the beginning of communications. With regard to the service referred to in subsection 2, paragraph 3 above the retention obligation applies to the name and address of a subscriber and registered user, subscription identifier, installation address, and data that can be used to identify the communications service user, the device used in communications and the time and duration of the service. The data to be retained must be limited to what is necessary for identifying the facts referred to above in this section, with due consideration to the technical implementation of the service.

The data of the services referred to above in subsection 2, paragraph 1 shall be retained for 12 months, the data of the services referred to in subsection 2, paragraph 3 for 9 months and the data of the services referred to in subsection 2, paragraph 2 for 6 months. The data retention time starts with the time of the communications.

The retention obligation does not apply to the contents of communications or traffic data generated through the browsing of websites.

A requirement for the retention obligation is that the data are accessible and produced or processed under this Act or Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) in connection with the provision of publicly available communications services by the operator under the retention obligation.



Further provisions on a more specific definition of data under the retention obligation may be issued by Government Decree.

The technical details of data to be stored under the retention obligation are defined in Traficom regulation.

## **Section 158 (1003/2018)**

### **Obligations and procedures for processing data retained for the purposes of the authorities**

Before implementing the retention obligation, an operator under the retention obligation shall discuss with the Ministry of the Interior the needs of the authorities concerning data retention. The operator under retention obligation decides on the technical implementation of the retention. The implementation shall follow the principles of cost-efficiency. In addition, the business needs of the operator under the retention obligation, the technical features of the systems, and the needs of the authority paying for the costs for the retention should be considered. Data should be retained in such a way as to avoid the same data being retained by several undertakings.

The Ministry of the Interior has the right to acquire from an external service provider a system to which the data in this group can be transferred. An operator under the retention obligation has the right to store in a system data that has not yet been completely processed for its own use.

Section 247 shall apply to the obligation of an operator under the retention obligation to ensure information security. An operator under the retention obligation shall name the persons entitled to process data to be retained or duties involving their processing. An operator under the retention obligation shall ensure that information about data retention and its purposes is available to the subscriber.

It must be ensured that the data retained can be transmitted to the authorities entitled to it without undue delay. An operator under the retention obligation shall, together with a network operator if necessary, ensure that the obligation is met in such a way that the available data referred to in section 157 processed by the network operator in providing the service of the operator under the retention obligation shall be retained.

Further provisions on meeting the retention obligation may be given by Government Decree.

Further regulations on the technical implementation of retention and information security may be given by Traficom.

## **Section 159**

### **Statistics concerning the use of data to be retained for the purposes of the authorities**

The Ministry of the Interior shall provide the Parliamentary Ombudsman on a yearly basis with statistics on using data retained by virtue of this Act. The statistics shall include:

- 1) the cases in which retained data were provided to the authorities;
- 2) the cases where the authorities' requests for retained data could not be met;
- 3) the time elapsed between the date on which the data were retained and the date on which the authorities requested for the data.

The Ministry of the Interior shall take the statistics referred to in subsection 1 into account in its reports on use of telecommunications interception and monitoring to the Parliamentary Ombudsman by virtue of the Police Act (872/2011), Coercive Measures Act or any other Act.

## **Chapter 20**

### **Location data and other subscriber connection or terminal device location data**

## **Section 160**

### **Processing and disclosure of location data**

Location data that can be associated with a natural person may be processed for the purpose of offering and using value added services, provided the subscriber or user to whom the data pertain has given consent or unless such consent is unambiguously implied from the context or otherwise provided by law.

The consent referred to in subsection 1 above shall not constitute derogation from other provisions on a user's or subscriber's right to obtain location data.

Location data may only be processed in the extent required by the purpose of the processing and it may not limit the protection of privacy any more than is necessary. After processing the location data must be destroyed or rendered such that they cannot be association with the subscriber or user involved, unless otherwise provided by law.

Persons employed by value added service providers and anyone acting on their behalf may process location data subject to the provisions of this chapter.

Whoever receives or obtains in any other way knowledge of location data not intended for him or her shall not disclose or make use of the data, or the knowledge of its existence, without the consent of the party to whom the data applies, unless otherwise provided by law.

### **Section 161**

#### **Obligation to provide information**

The provider of value-added service shall ensure that the person to be located has easy and continuous access to information on the precision of the location data processed, the precise purpose and duration of the processing and whether location data can be disclosed to a third party for the purpose of providing value-added services. Before disclosing location data, a provider of value-added service shall take appropriate steps to ensure that such information is available to the person to be located prior to the consent referred to in section 160, subsection 1.

### **Section 162**

#### **Subscribers' and users' rights**

The subscriber or user shall have the opportunity to easily and at no separate charge cancel the consent referred to in section 160(1), unless otherwise provided by law. The person to be located shall have the opportunity to easily and at no separate charge temporarily ban the processing of location data if this is technically feasible and does not cause unreasonable additional costs.

A user is entitled to receive from a provider of value-added service or communications provider the traffic data possessed by them showing the location data and traffic data appearing at the subscriber connection or terminal device at a given moment.

The prohibiting of the processing of location data and the service-specific consent and right to information is decided in the case of minors under the age of 15 by their guardian. In addition, provisions on the representation of a minor are laid down in the Child Custody and Right of Access Act. Legally incompetent persons other than minors shall be represented by their guardian unless this is impossible by virtue of the technical implementation of the service. Provisions on representation of an incompetent person are laid down in the Guardianship Services Act.

## **PART VII**

### **SPECIAL PROVISIONS APPLICABLE TO ELECTRONIC SERVICES**

#### **Chapter 21**

##### **Domain names**

#### **Section 163 (1003/2018)**

##### **Scope of application**

This chapter applies to Internet domain names that end with the national country code Top Level Domain of Finland (country code fi) or with the region code Top Level Domain of Åland (region code ax) and to domain name administration and provision of domain names.

The provisions in this chapter on the domain name register maintained by Traficom shall also apply to the register of domain names ending with region code ax.

#### **Section 164 (1003/2018)**

##### **Domain name activity of Traficom and provision of domain names**

Traficom maintains a register of domain names ending with the fi-code (*domain name register*) and a database of the technical data of domain names for directing Internet traffic (*fi-root*).

Only an operator who has made a domain name notification referred to in section 165 (*domain name registrar*) may make entries in the domain name register. Traficom may, however, register single-character and other domain names for domain name administration purposes free of charge. Traficom may make entries in the domain name register that are necessary to achieve the objectives of this Act.

A domain name may be registered for a legal person, a business operator or other association or a natural person (*domain name holder*).

## **Section 165 (1003/2018)**

### **Domain name registrar's duty to notify**

A domain name registrar shall submit a written notification to the authority in charge of domain names before launching its operations. The notification shall include the registrar's identification, the email address used for hearings and service of notices and other information relevant for supervision.

Traficom shall, without delay, be notified of any changes in the information given by the domain name registrar. Traficom and the customers shall be notified of termination of operations at the latest two weeks in advance. The customers shall be notified of a prohibition decision issued by Traficom under section 171, subsection 2 without delay.

Traficom may issue further regulations on the submission of the notification and its content.

## **Section 166 (1003/2018)**

### **Form and content of a domain name**

A domain name shall include at least two but no more than 63 characters.

At the time of registration, a domain name shall not be:

- 1) identical to a protected name or trademark owned by another party, unless the domain name holder can present an acceptable reason for registering the domain name; or
- 2) similar to a protected name or trademark owned by another party, if the clear intent of registering the domain name is to benefit from it or to cause damage.

Traficom may issue further regulations on specifications, form, length and permissible characters necessary for a functional domain name.

## **Section 167 (1003/2018)**

## **Entering data in the domain name register and publishing information**

A domain name shall be registered in the domain name holder's name. The domain name registrar shall enter in the domain name register the domain name holder's correct, up-to-date and identifying information and the email address to be used for hearings and service of notices.

Traficom may publish information on the domain name register in its Internet pages and also in other electronic service. Provisions on the protection of personal data are laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and in the supplementary Data Protection Act. The provisions of section 16 of the Act on the Openness of Government Activities apply to access to register information. ([1207/2020](#))

The registered domain name shall be valid for no more than five years at a time. A domain name registrar may renew the domain name for a maximum period of five years at a time.

Traficom may issue further regulations on the technical implementation of registration and the information to be submitted in connection with the registration and on the identification of the domain name holder. ([1207/2020](#))

## **Section 168 (1003/2018)**

### **Transfer of a domain name and switch of domain name registrar**

A domain name may be transferred to another party during its validity period. A domain name registrar shall transfer the domain name within reasonable time from receiving the request. If the domain name has not been transferred within a reasonable time, Traficom may transfer the domain name. A domain name may not be transferred if a matter concerning the removal of a domain name is pending with Traficom.

Traficom may return a domain name to its original holder if the domain name has been transferred to another without the holder's consent and the holder requests a correction of the entry, and the recipient of the transfer does not present an acceptable reason for the transfer within a set period.

A domain name holder may switch domain name registrars while the domain name is valid. The domain name registrar shall take the measures required to make this switch within a reasonable time from receiving the request. If a domain name has not been transferred to another domain name registrar within a reasonable time, Traficom may transfer the domain name.

Traficom may issue further regulations on the technical implementation and time period to be set for transfer and switching domain name registrars.

## **Section 169 (1003/2018)**

### **Removal of a domain name entry**

Traficom may remove a domain name from the domain name register and the fi-root if the information referred to in section 167, subsection 1 is insufficient or defective, and the information is not, regardless of a request, corrected within a set period.

Traficom removes a domain name from the domain name register and the fi-root without hearing the holder if the domain name validity period has expired.

If a holder of a right referred to in section 166, subsection 2 requests for the removal of a domain name, Traficom may remove a domain name that was entered in violation of the provisions of this Act from the domain name register and the fi-root or register it for the use of the right holder.

Traficom may remove a domain name entry for a maximum period of one year from the fi-root without hearing the holder, if the domain name holder has applied for several domain names similar to a protected name or trademark of another holder and the holder of the protected name or trademark requests the removal of the domain name.

A removed domain name will be released for registration after one month from removal.

Traficom may remove a domain name if a court of law has issued a final decision forbidding its use.

## **Section 170 (1003/2018)**

### **Other obligations of the domain name registrar**

A domain name registrar shall:

- 1) prior to registering a domain name, provide the data related to content and form prerequisites of the domain name in accordance with this Act;
- 2) keep the data in the domain name register up to date;
- 3) be able to enter data in the domain name register using the technical arrangement determined by Traficom;
- 4) sufficiently and effectively notify the domain name holder of the expiry date of the domain name's validity period;
- 5) remove a domain name from the domain name register upon request by a domain name holder prior to the expiry date of the validity period;
- 6) ensure the information security of its operations;
- 7) notify Traficom without delay of a significant violation, or a threat of violation, of information security in its domain name registration services as well as of another incident that essentially prevents or disturbs such services; the estimated duration and consequences of the disturbance or the threat of disturbance and of the measures to rectify the situation and to prevent the reoccurrence of such disturbance shall be notified at the same time.

Traficom may issue further regulations on the information to be provided to a domain name holder, the information security of operations, whether a disturbance referred to in subsection 1, paragraph 7 is significant and the content, form and delivery of the notification.

## **Section 171 (1003/2018)**

### **Organising domain name administration**

It is the responsibility of Traficom to:

- 1) manage the country code fi;



- 2) maintain and develop the fi-code domain name system;
- 3) be responsible for data transfer connections between name servers of the fi-root and for interconnection traffic to the Internet;
- 4) supervise the operations of domain name registrars;
- 5) be responsible for the information security of the fi-root.

#### (1207/2020)

Traficom may issue a reprimand to a domain name registrar if the registrar violates this Act or the provisions, regulations or decisions issued under it. Traficom may, in connection with the reprimand, oblige the domain name registrar to remedy the defect or neglect within a reasonable time period set. If the defect or neglect is not remedied within the time period set, Traficom may forbid the domain name registrar from entering domain names or changes relating to them in the domain name register for a maximum period of one year.

### **Section 172 (1003/2018)**

#### **Ensuring domain name information security**

Traficom has a right to undertake the necessary measures in order to detect, prevent, investigate and refer to pre-trial investigation any significant information security violations aimed at public communications networks or services or their users, utilizing .fi code domain names. Traficom may undertake these measures without hearing the domain name holder.

The necessary measures referred to in subsection 1 above may be actions targeted at fi-root name server data and may include the following:

- 1) prevent and restrict traffic to the domain name;
- 2) reroute traffic to the domain name to another domain name address; and
- 3) any other comparable technical measures in the meaning of subsections 1–2.

Any measures referred to in this section shall be implemented with care, and they shall be commensurate with the seriousness of the information security violation being combated. Such

measures shall not limit freedom of speech, the confidentiality of communications or the protection of privacy any more than is necessary for the purpose of safeguarding the goals referred to in subsection 1. Such measures shall be discontinued if the conditions for them specified in this section no longer exist.

## **Chapter 22**

### **Information society services**

#### **Section 173**

##### **Restrictions on the scope**

The provisions of this Chapter shall not apply to:

- 1) taxation;
- 2) issues included in the scope of application of Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data and of Directive 2002/58/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the telecommunications sector (Directive on Privacy and Electronic Communications);
- 3) activities of notaries public and of corresponding professionals which include the use of public authority;
- 4) activities of an attorney or a legal counsel in court;
- 5) lottery operations against payment.

The following sections 174 and 175 shall not apply to:

- 1) copyright, neighbouring rights, industrial property rights or the rights referred to in Council Directive 87/54/EEC on the legal protection of topographies of semiconductor products and in Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases;

- 2) issuance of electronic money, if the Member State has adopted some of the optional exemptions referred to in Article 9(1) of the Directive 2009/110/EC of the European Parliament and of the Council on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC;
- 3) advertising of units of undertakings for collective investment in transferable securities (*UCITS*) referred to in Article 44(2) of Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities;
- 4) issues relating to freedom of establishment, free provision of insurance and to the law applicable on contracts of insurance;
- 5) freedom of the parties to choose the law applicable to contract;
- 6) contractual obligations in consumer contracts;
- 7) mandatory provisions of the law in a State where the property is located regarding the form of a contract when the right to the property is established or transferred by contract;
- 8) permissibility of unsolicited commercial email communication.

*Council Directive 85/611/EEC was repealed by Directive of the European Parliament and of the Council 2009/65/EU. Directive of the European Parliament and of the Council 95/46/EU was repealed by Regulation of the European Parliament and of the Council (EU) 2016/679 (General Data Protection Regulation).*

## **Section 174**

### **Co-ordinated field and freedom to provide information society services**

*Co-ordinated field* means the requirements laid down in the legal order which information society service providers shall comply with when commencing and continuing their operations, such as requirements concerning:

- 1) qualifications, authorisation, registration or notification to the authorities;
- 2) procedures, advertising and other marketing, the quality and content of the service, contracts or the liability of the service provider.

No requirements, falling within the co-ordinated field, which restrict provision of information society services in Finland, must be imposed on information society service providers established in another State of the European Economic Area. However, a court or some other competent authority may restrict provision of certain services in accordance with its separately prescribed powers, if:

- 1) restrictions are necessary to maintain public order or security, to safeguard public health or to protect consumers;
- 2) restrictions are directed at services which damage the objectives referred to in paragraph 1 or may seriously endanger their attainment; and if
- 3) restrictions are in proportion to the objective.

Restrictions must not be implemented before the Member State where the service provider is established has been asked to take action in the matter, but the Member State of establishment has not implemented the action or the action has not been sufficient. In addition, the Commission of the European Union and the Member State where the service provider is established must be notified of the restrictions before their implementation.

In urgent cases, restrictions may be implemented, the provisions in subsection 3 notwithstanding. The Commission of the European Union and the Member State where the service provider is established shall be notified immediately of the restrictions and of the reasons why the case is considered urgent.

The provisions in subsections 3 and 4 shall not apply to crime investigations or when hearing the case in court.

## **Section 175**

### **Observance of Finnish law**

Competent authorities in Finland shall supervise that the information society service providers established in Finland observe the Finnish law in the co-ordinated field also when provision of services is solely or mainly directed at another Member State within the European Economic Area.

## **Section 176**

### **General obligation to provide information**

In addition to the provisions elsewhere in the law on obligations to give information, information society service providers must have at least the following information easily, immediately and continuously available to the recipients of the services and to the authorities:

- 1) the service provider's name, geographical address in the state of establishment, email address and other contact information through which the service provider may be contacted quickly, directly and effectively;
- 2) the trade register or any other corresponding public register where the service provider has possibly been entered and the service provider's company and corporate ID or any other corresponding identification in said register;
- 3) the contact information for the appropriate supervising authority if pursuit of the operations requires a licence or registration;
- 4) the VAT identification if the service provider is pursuing operations subject to VAT.

In addition to the provisions in paragraph 1, information society service providers which practice a regulated profession in the meaning of Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications must have available the following information:

- 1) any professional body or a corresponding association to which the service provider belongs;
- 2) the occupational title and the Member State where it was awarded;

3) a reference to the professional code of conduct applicable in the state of establishment and as to where and how it is accessible.

If information on the prices of goods or services is supplied when providing information society services, they shall be supplied clearly and unambiguously. The information must indicate whether VAT and delivery charges are included in the price. There are separate provisions on notifying about the price of a commodity.

## **Section 177**

### **Obligation to give information when placing an order**

In addition to the provisions elsewhere in the law on obligations to give information, the information society service providers shall, before recipients of the service place an order, have available to them clear and easy to understand information at least on the following matters:

- 1) technical stages when concluding a contract;
- 2) whether the service provider is storing the concluded contract and whether it is accessible to the other party;
- 3) technical means which may be used to identify and correct errors of entry before placing an order;
- 4) languages which may be used to conclude a contract;
- 5) codes of conduct concerning the matter, observed by the service provider, and where and how they are electronically accessible.

The provisions of subsection 1 shall not be applied to contracts concluded by solely using email or a corresponding personal method of communication. A contract may deviate from the provisions of paragraph 1 unless a consumer is a party to the contract.

## **Section 178**

### **Supply of contractual terms**

Information society service providers shall supply recipients of services with contractual terms so that the recipients may save and reproduce them.

## **Section 179**

### **Order and acknowledgement of receipt**

If an order is placed using technical means, information society service providers shall immediately electronically notify receipt of the order. There is no need to supply an acknowledgement of receipt if the ordered commodity is delivered electronically without delay.

Appropriate, effective and easy to use technical means must be made available by service providers to recipients of services allowing them to identify and correct entry errors before placing an order.

The provisions of subsections 1 and 2 shall not apply to contracts concluded by solely using email or a corresponding personal method of communication. A contract may deviate from the provisions of subsections 1 and 2 unless a consumer is a party to the contract.

## **Section 180**

### **Time of receipt**

The order and the acknowledgement of receipt, referred to in section 179 above, is regarded as received when it is available to the party it was addressed to.

## **Section 181**

### **Meeting the formal requirements on a contract electronically**

If a contract must be concluded in writing according to the law, this requirement is also met by an electronic contract with contents that cannot be unilaterally altered, and which remain accessible to the parties. If a contract must be signed according to the law, the separate provisions on electronic signatures shall be applied. The provisions of this subsection shall correspondingly apply to notifications and other measures by the parties relating to the contractual relation which according to the law must be in writing or signed.

If a notification relating to a contract must be supplied verifiably according to the law, this requirement may also be met by such an electronic method with which it can be demonstrated that the recipient has received the notification.

The provisions of subsections 1 and 2 shall not apply to a contract concerning a property deal or any other transfer of a property or a contract relating to family or estate law.

## **Section 182**

### **Exemption from liability in data transfer services and network services**

When an information society service consists of the transmission in a communications network of information provided by a recipient of the service, or the provision of access to a communications network, the service provider is not liable for the content or transfer of the information transferred if it does not:

- 1) initiate the transfer;
- 2) select the receiver of the transfer; and
- 3) select or modify the information contained in the transfer.

The acts of transfer and provision of access referred to in subsection 1 include the automatic, intermediate and temporary storage of the information transferred in so far as storage takes place for the sole purpose of carrying out the transfer in the communications network, and provided that the information is not stored for any period longer than is reasonably necessary for the transfer.

## **Section 183**

### **Exemption from liability when caching the information**

When an information society service consists of the transfer in a communications network of information provided by a recipient of the service, the service provider is not liable for the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients of the service upon their request, if the service provider:



- 1) does not modify the information;
- 2) complies with the conditions on access to the information;
- 3) complies with rules regarding the updating of the information, specified in a manner widely recognised and used in the industry;
- 4) does not interfere with the lawful use of technology, widely recognised and used in the industry, to obtain data on the use of the information; and
- 5) acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact:
  - a) that the information at the initial source of the transmission has been removed from the network;
  - b) access to it has been disabled; or
  - c) a court or an administrative authority has ordered such removal or disablement.

## **Section 184**

### **Exemption from liability in hosting services**

When an information society service consists of the storage of information provided by a recipient (*content provider*) of the service upon his request, the service provider is not liable for the content of the information stored or transmitted if it acts expeditiously to disable access to the information stored upon:

- 1) obtaining knowledge of a court order concerning it or if it concerns violation of copyright or neighbouring right upon obtaining the notification referred to in section 191;
- 2) by otherwise obtaining actual knowledge of the fact that the stored information is apparently contrary to chapter 11, section 10 or 10a or chapter 17, section 18 or 18a of the Criminal Code.

The provisions in subsection 1 shall not apply if the content provider is acting under the authority or the control of the service provider.

## **Section 185 (1207/2020)**

### **Order to disable access to information**

Upon request from a public prosecutor or a person in charge of inquiries or on application by a party whose right the matter concerns, a court may order the information society service provider referred to in section 184 to disable access to the information stored by it if the information is clearly such that keeping its content available to the public or its transmission is prescribed punishable or as a basis for civil liability. The court shall urgently process the application. The application cannot be approved without an opportunity for the service provider and the content provider an opportunity to be consulted except if the consultation cannot be arranged as quickly as the urgency of the matter so necessarily requires.

The order referred to above in subsection 1 may, upon application by the public prosecutor or the head investigator, be directed at the telecommunications operator that transmits the information if the information society service provider in accordance with subsection 1 cannot be identified or if it is established outside the jurisdiction of Finland and it is apparent that keeping the information subject to the order publicly accessible or its transmission is an offence the most severe penalty provided for which is at least two years of imprisonment. An order against a telecommunications operator shall be technically enforced so that the protection of confidential communications of the network users is not undermined. An order may be issued only if the benefits of disabled access to information can be deemed to be significantly greater than the restrictions of network users relating to freedom of speech and other fundamental rights and the order cannot be deemed unreasonable for the telecommunications operator. The assessment shall be made taking into account at least the seriousness of the offence at hand and the relationship between the offence and the other contents and services to which access may be disabled in connection with the order to disable. An order against a telecommunications operator may not be approved without reserving the operator the right to be heard. The provisions of subsection 1 apply to the hearing of a service provider and a content provider referred to in subsection 1.

A court order must also be made known to the content provider. If the content provider is not known, the court may order the information society service provider to take care of notification.

An order ceases to be in effect unless charges are brought for an offence based on the content or transmission of information referred to in the order or, when concerning a liability, action is brought within three months of issuing the order. On request by a public prosecutor, by an injured party or by an interested party within the time limit referred to above, the court may extend this time limit by a maximum of three months.

The information society service provider, the content provider and the telecommunications operator have the right to apply for reversal of the order in the district court where the order was issued. The provisions of chapter 8 of the Code of Judicial Procedure shall be complied with when considering a matter concerning reversal of an order. However, the court takes care of the necessary procedures to hear a public prosecutor. The reversal must be applied for within 14 days of the date when the applicant was notified of the order. The information must not be made available again when the hearing of the case concerning the reversal is pending unless otherwise ordered by the court dealing with the case. A public prosecutor has also the right to appeal the decision that reversed the order.

## **Section 186 (1207/2020)**

### **Competent court**

The application referred to in section 185 above is considered by the district court within the judicial district of which the information society service provider or the telecommunications operator has its domicile. However, the application may also be heard by the court in Helsinki. A chairman of the court alone may also constitute a quorum.

## **Section 187**

### **Legal safeguards for the content provider**

If the information society service provider has prevented access to information under section 184, subsection 1, paragraph 2, it shall immediately notify the content provider of this in writing or electronically so that the content of the notification cannot be unilaterally altered and it remains accessible to the parties. The notification must state the reason for prevention and information on the right of the content provider to bring the matter for a court hearing. The notification must be made in the mother tongue of the content provider, in Finnish or in Swedish. The notification may also be made in another language agreed with the content provider.

The content provider has the right to bring the matter concerning prevention to be heard by the court referred to in section 186 within 14 days from the receipt of the notification referred to in subsection 1. The provisions of section 185, subsection 4 shall be observed during the hearing of the case concerning prevention.

### **Section 188**

#### **Information society service provider's obligation to take action to implement a decision by the authorities**

The provisions of sections 182–184 on the information society service provider's exemption from liability have no effect on the service provider's obligation under any other act to take the necessary action to implement an order or a decision by a court or by any other competent authority.

### **Section 189**

#### **Prevention of access to material infringing copyright or neighbouring right**

A holder of a copyright or his or her representative may request the information society service provider referred to in section 184 to prevent access to material infringing copyright as prescribed in this section and in sections 191–193. The same applies to a holder of a neighbouring right and his or her representative if it concerns material infringing this right.

A request must first be presented to the content provider whose material the request concerns. If the content provider cannot be identified or if he or she does not remove the material or prevent access to it expeditiously, the request may be submitted to the information society service provider by notification prescribed in section 191.

### **Section 190**

#### **Information society service provider's contact point**

The information society service provider shall give a contact point where the notification referred to in section 191 and the plea referred to in section 192 may be delivered. The contact information of the contact point shall be easily and continuously accessible.

## **Section 191**

### **Form and content of the notification**

The notification referred to in section 189 shall be made in writing or electronically so that the content of the notification cannot be unilaterally altered and it remains available to the parties.

The notification shall include:

- 1) the name and contact information of the notifying party;
- 2) an itemisation of the material, for which prevention of access is requested, and details of the location of the material;
- 3) confirmation by the notifying party that the material which the request concerns is, in its sincere opinion, illegally accessible in the communications network;
- 4) information concerning the fact that the notifying party has in vain submitted its request to the content provider or that the content provider could not be identified;
- 5) confirmation by the notifying party that he/she is the holder of copyright or neighbouring right or entitled to act on behalf of the holder of the right;
- 6) signature of the notifying party.

A notification that does not meet the requirements in subsection 1 is invalid. If the shortcomings in the notification solely concern the information referred to in subsection 1, paragraph 2, the information society service provider shall, however, take reasonable steps to contact the notifying party and to communicate the shortcomings discovered.

## **Section 192**

### **Notification to the content provider and the plea**

The information society service provider shall immediately notify the content provider of prevention of access to the material supplied by him/her and to supply the content provider with a copy of the notification on the basis of which prevention was made.

If the content provider considers that prevention is groundless, he or she may get the material returned by delivering to the notifying party a plea in writing or electronically, as prescribed in section 191, within 14 days of receiving the notification. A copy of the plea shall be delivered to the service provider. The plea must include:

- 1) the name and contact information of the content provider;
- 2) the facts and other reasons under which prevention is considered groundless;
- 3) an itemisation of the material for which prevention is considered groundless;
- 4) signature by the content provider.

### **Section 193**

#### **Returning the material**

If the plea, meeting the requirements of section 192, is delivered within the time limit, the information society service provider must not prevent the material specified in the plea from being returned and kept available unless otherwise provided by an agreement between the service provider and the content provider or by an order or decision by a court or by any other authority.

### **Section 194**

#### **Liability to compensate**

A person who gives false information in the notification referred to in section 191 or in the plea referred to in section 192 shall be liable to compensate for the damage caused. However, there is no liability to compensate or it may be adjusted if the notifying party had reasonable grounds to assume that the information is correct or if the false information is only of minor significance, when taking into account the entire content of the notification or the plea.

## **Chapter 23**

### **Directory inquiry services**

## **Section 195 (1003/2018)**

### **Availability of directory inquiry services**

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.

A telecommunications operator with which a subscriber has entered into an agreement on the use of a telephone subscriber connection shall ensure that the contact information concerning the user's name, address and telephone number is collected and published in a generally available, comprehensive and reasonably priced telephone directory.

Traficom may issue further regulations on technical measures necessary to meet the obligation referred to in subsection 1.

## **Section 196**

### **Releasing contact information**

A telecommunications operator and directory inquiry service provider shall, on request, provide the contact information referred to in section 195, subsection 2 above in usable form to another undertaking for the purposes of providing a directory inquiry service. The contact information shall be released:

- 1) in usable form;
- 2) at a cost-oriented price; and
- 3) on non-discriminatory terms.

A telecommunications operator and inquiry directory service provider shall publish information on the price charged for releasing contact information.

An inquiry directory service provider shall not favour one telecommunications operator over another or otherwise act in a discriminatory manner.

## **Section 197**

### **Processing personal data**

A directory inquiry service provider is entitled to process personal data for the purpose of creating and providing directory inquiry services.

## **Section 198**

### **Publishing prohibition**

A telecommunications operator and directory service provider shall give any subscriber or user who is a natural person the opportunity to prohibit, at no charge, the inclusion of any part or all of his or her contact information in directory inquiry services. The telecommunications operator and any undertaking providing a directory inquiry service shall, if any user or subscriber who is a natural person so requests, remove and correct incorrect information at no charge.

A telecommunications operator or directory inquiry service provider shall allow undertakings and other organisations entered in directory inquiry services the right to have their contact information removed and incorrect contact information corrected.

## **Section 199**

### **Obligation to notify about the purpose and use of a directory service**

A telecommunications operator shall notify a subscriber who is a natural person about the purpose and use of any directory inquiry service that is publicly available or usable through any directory inquiry service. Such notification shall be given at no charge before the subscriber's information is entered in the service.

In addition, a telecommunications operator and directory inquiry service provider shall ensure that sufficiently itemised information about the undertakings to whom the subscriber's contact information was released pursuant to section 196, subsection 1 is easily available to the subscriber.

## **Chapter 24**

### **Electronic direct marketing and cookies**

## **Section 200**

### **Direct marketing to natural persons**



Direct marketing by means of automated calling systems, facsimile machines, or email, text, voice, sound or image messages may only be directed at natural persons who have given their prior consent.

Direct marketing other than that referred to in subsection 1 to a natural person is allowed if the person has not specifically prohibited it. A natural person must be able to easily and at no charge prohibit direct marketing as referred to in this subsection.

Notwithstanding subsection 1, where a service provider or a product seller obtains from any customer who is a natural person his/her contact information for email, text, voice, sound or image messages in the context of the sale of a product or service, that service provider or product seller may use this contact information for direct marketing of his or her own products of the same product group and of other similar products or services. The service provider or product seller shall allow any customer who is a natural person the opportunity to prohibit, easily and at no charge, the use of contact information at the time when it is collected and in connection with any email, text, voice, sound or image message. The service provider or product seller shall notify the customer clearly of the possibility of such a prohibition.

## **Section 201**

### **Marketing prohibition of telephone subscriber connections**

Direct marketing of mobile telephone subscriber connections to a consumer by telephone is only allowed upon explicit request by the consumer.

The provisions of subsection 1 shall not apply to a telecommunications operator's marketing

*Section 201 shall be in force until 1 July 2021.*

## **Section 202**

### **Direct marketing to legal persons**

Direct marketing to legal persons is allowed if the recipient has not specifically prohibited it. Any legal person shall be allowed the opportunity to prohibit, easily and at no separate charge, the use of its contact information in connection with any email, SMS, voice, sound or image message

sent in direct marketing. The party undertaking direct marketing shall give clear notification of the possibility of such a prohibition.

### **Section 203**

#### **Identification of direct marketing**

The recipient of an email, text, voice, sound or image message sent for the purpose of direct marketing as referred to in sections 200 and 202 above shall be able to recognise such a message as marketing clearly and unambiguously.

It is prohibited to send such an email, text, voice, sound or image message intended for direct marketing that:

- 1) disguises or conceals the identity of the sender on whose behalf the communication is made;
- 2) is without a valid address to which the recipient may send a request that such communications be ended;
- 3) solicits recipients to visit websites that are contravene the provisions of chapter 2 of the Consumer Protection Act.

### **Section 204**

#### **Preventing the reception of direct marketing**

Telecommunications operators and corporate subscribers are entitled, at a user's request, to prevent the reception of direct marketing as referred to in sections 200, 202 and 203.

Such measures shall be undertaken with care, and they must not restrict freedom of speech or limit the confidentiality of communications or the protection of privacy any more than is necessary.

### **Section 205**

#### **Saving data on the use of a service on the user's terminal device and the use of such data**

The service provider may save cookies or other data concerning the use of the service in the user's terminal device, and use such data, if the user has given his or her consent thereto and the service

provider gives the user comprehensible and complete information on the purposes of saving or using such data.

Provisions of subsection 1 above do not apply to any storage or use of data which is intended solely for the purpose of enabling the transmission of messages in communications networks or which is necessary for the service provider to provide a service that the subscriber or user has specifically requested.

The storage and use of data referred to above in this section is allowed only to the extent required for the service, and it may not limit the protection of privacy any more than is necessary.

## **PART VIII**

### **AUDIOVISUAL SERVICES AND RADIO BROADCASTING**

#### **Chapter 25**

#### **Content of television broadcasts and on-demand programmes services**

#### **Section 206**

#### **Scope of application and restrictions**

This chapter and chapter 26 shall apply to audiovisual content services carried out by a natural person or an organisation or foundation established in Finland if the operations are carried out in one or more Member States of the European Economic Area or States party to the European Convention on Transfrontier Television (Finnish Treaty Series 1994/87), hereinafter the "Council of Europe's Convention on Transfrontier Television", and in cases referred to in section 339 to the retransmission of television and radio programmes.

This chapter and chapter 26 shall apply to radio broadcasting if a radio frequency granted by Finland or a distribution network established in Finland is used in the operations.

This part or section 339 shall not apply to:

1) operations where the audiovisual content services or radio transmissions may be received only in an educational unit, a hospital, a hotel or similar establishment; or to

2) radio broadcasting referred to in section 34, subsection 2 above.

This Act shall not apply to:

1) services where the provision of audiovisual content with regard to the amount of programmes or repetitiveness of broadcasts is merely incidental and not its principal purpose; or to

2) video clips and moving images included in the editorial content of the electronic versions of newspapers and journals. ([1207/2020](#))

Sections 209 and 210 shall not apply to the activities referred to in section 28 and section 34, subsection 2 above.

## **Section 207**

### **Establishment**

An audiovisual content service provider shall be deemed to be established in Finland if:

1) the provider has its head office in Finland and if the decisions about programmes and their schedules are made in Finland; or if

2) the operation has a significant connection to Finland, based on the programming schedule, decisions on programmes, employees' workplaces, commencement of operations, activities of economic significance, satellite base station or satellite capacity or other comparable circumstances.

Further provisions on a more specific definition of activities of economic significance referred to in subsection 1, paragraph 2 may be issued by Government Decree.

## **Section 208**

### **Local television broadcasting**

The provisions of sections 209 and 210 shall not apply to broadcasting in local television networks or to transmissions which cannot be received in any Member State of the European Economic Area

or in any State outside of Finland which is party to the European Convention on Transfrontier Television.

## **Section 209 (1003/2018)**

### **European content of programmes**

A television broadcaster shall reserve a major share of its annual free-to-air broadcasting time for European works. The broadcasting time referred to above does not include time reserved for:

- 1) news;
- 2) sports events;
- 3) competitive entertainment programmes;
- 4) advertising;
- 5) teletext services; or for
- 6) teleshopping.

If the programming of the television broadcaster does not reach the share of European works referred to in subsection 1, the television broadcaster shall present a report to Traficom regarding the reasons for this and, on request, a plan for the period within which the programming will comply with subsection 1. In that case, the share of European works in the programming shall, however, be at least at the same level as in the previous monitoring period.

Further provisions on what is considered European works referred to in subsection 1 in accordance with Article 1 of Directive 2010/13/EU of the European Parliament and of the Council on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) are issued by Government decree.

A provider of on-demand programme services shall reserve a share of at least 30 per cent in its catalogue for European works and ensure their prominence in the catalogue. The obligation is not

applied to a provider of on-demand programme services with a low turnover or low audience or if the imposition of the obligation would in practice be impracticable or unjustified. ([1207/2020](#))

## **Section 210**

### **Programmes by independent producers**

A television broadcaster shall reserve for programmes produced by independent European producers 19 per cent of its broadcasting time referred to in section 209, subsection 1, or alternatively 19 per cent of his or her programming budget. Half of the programmes included in said share of the independent producers referred to above have to have been produced within the past five years.

An independent producer means a producer of audiovisual programmes, the share capital of whom an individual audiovisual content service provider controls at most 25 per cent or several providers at most 50 per cent, and who, during the past three years, has produced no more than 90 per cent of its programmes for the same provider.

## **Section 211 (1207/2020)**

### **Programming accessible to people with a visual or hearing disability**

Finnish or Swedish television programmes and on-demand programme service programming shall be accompanied by subtitling and other programmes by audio description or service where the text of the subtitled programme is converted to voice (*audio-subtitling and subtitling service*) as laid down in this section.

Audio-subtitling and subtitling services shall be added to public service programming referred to in the Act on Yleisradio Oy (Finnish Broadcasting Company) and to programming available in on-demand programme services. The audio-subtitling and subtitling service shall also be added to television programming sent under a national programming licence and serving several different audience groups and to public-interest television programming and their on-demand programme service programming. Audio-subtitling and subtitling services need not be added to music presentations or sports programmes provided as live broadcasts. The implementation of the subtitling service shall be of high quality so that the subtitling is adequately clear and comprehensible for the user.

The costs of implementing audio-subtitling and subtitling incurred by an operator other than a public service television broadcaster shall not exceed one per cent of the operator's prior financial period.

The share of audio-subtitling and subtitling service shall be 75 per cent of the public-interest television programming and programming serving several different audience groups referred to in subsection 2 and 100 per cent of public service programming. The share of audio-subtitling and subtitling service shall be 30 per cent of on-demand programme services referred to in subsection 2.

The provider of audio-visual content services shall report to Traficom of its actions to implement the accessibility of the services. The provider of audio-visual content services shall also prepare an action plan for making its services accessible continuously and gradually. The action plan shall be submitted to Traficom.

Government decree:

- 1) may provide on the technical implementation and broadcasting of audio-subtitling and subtitling services;
- 2) provides for the cost per programme hour arising from the implementation of audio-subtitling and subtitling services;
- 3) issues further provisions on what is deemed programming serving several different audience groups.

The Ministry of Transport and Communications orders, by its decision, on the programming serving several different audience groups to which the audio-subtitling and subtitling service shall be added.

## **Section 212**

### **Use of exclusive rights**

If a television broadcaster has purchased an exclusive right to broadcast an event which one of the Member States of the European Economic Area has included in the list referred to in Article 14,

paragraph 1 of the Audiovisual Media Services Directive and confirmed by the Commission of the European Union, it may not exercise its exclusive right in such a way as to deprive a substantial proportion of the public in that Member State of the possibility of following the coverage of the event on free television as provided for by the State in question.

Provisions of subsection 1 on the use of exclusive rights shall be correspondingly applied to events referred to in the list referred to in Article 9a, paragraph 2 of the Protocol of Amendment (Treaty Series 118/2002) to the European Convention on Transfrontier Television.

Where necessary, it shall be designated by Government Decree which events are considered to be of such importance to society in Finland that their coverage shall be broadcast in the area of Finland so that a substantial proportion of the public can follow the coverage of the events free via live coverage or deferred coverage. A television broadcast of an event that is of importance to society as referred to in this subsection is deemed to have reached a substantial proportion of the public, if 90 per cent of the population are able to receive the broadcast without a separate charge.

If a television broadcaster that has purchased an exclusive right does not implement the transmission referred to in subsection 1 itself, it shall be liable to grant to another television broadcaster the right to broadcast the event if the latter requests it at least six months prior to the commencement of the event. The television broadcaster who conveys the right to broadcast shall have the right to full compensation for the conveyance.

## **Section 213 (1003/2018)**

### **Procedure concerning the use of exclusive rights**

If no agreement can be reached on the conveyance of broadcasting rights referred to in section 212, subsection 4, a television broadcaster that has purchased an exclusive right or a television broadcaster that has requested the granting of the right in accordance with section 212, subsection 4 may bring the matter to be considered by Traficom no later than three months before the event starts. Traficom may decide what shall be deemed as full compensation as referred to in section 212, subsection 4. The compensation shall be based on prices that are paid for corresponding rights in the competitive markets. Traficom may impose some technical terms also concerning the conveyance.



To enforce the decision referred to in this section, a conditional fine may be imposed. Provisions on a conditional fine are laid down in the Act on Conditional Fines (1113/1990).

## **Chapter 26**

### **Marketing**

#### **Section 214**

##### **General principles**

Marketing shall be readily recognisable.

The images or voices of persons appearing regularly in news or current affairs programmes may not be used in marketing, excluding ideological and social advertising referred to in section 224. Advertising and teleshopping shall be kept separate from audiovisual programmes and radio programmes by optical or acoustic means or by means of spatial division.

Teleshopping shall not exhort minors to contract for the sale or rental of goods and services. Further provisions on marketing against good practice and marketing targeted at minors that is against good practice are issued in chapter 2, section 2 of the Consumer Protection Act.

#### **Section 215**

##### **Insertion of advertising and teleshopping spots**

Advertising and teleshopping spots shall be inserted between audiovisual programmes in television programme service. They may also be inserted during audiovisual programmes in such a way that the integrity and value of the programme and the rights of the copyright holders are not prejudiced.

In programmes consisting of autonomous parts, in sports programmes and similarly structured programmes containing intervals, advertising and teleshopping spots shall only be inserted between the parts or during breaks.

Isolated advertising and teleshopping spots are prohibited with the exception of sports programmes.

## **Section 216 (1207/2020)**

### **Interruption of certain audiovisual programmes with advertising**

The broadcasting of feature films, films made for television and news programmes may be interrupted by advertising or teleshopping spots once for each 30-minute period.

Children's programmes may be interrupted by advertising once for each 30-minute period, however, only if their duration according to the programme schedule is more than 30 minutes. Children's programmes may not be interrupted by teleshopping spots.

Television broadcasts of religious services may not be interrupted by advertising or teleshopping spots.

## **Section 217 (1115/2017)**

### **Marketing of certain products**

The provisions of the Act on the Measures to Decrease Smoking (2016/549) shall apply to the advertising and teleshopping spots for tobacco products. The provisions on the marketing of alcoholic beverages are laid down in the Alcohol Act (1102/2017). The provisions on the marketing of medicines are laid down in the Medicines Act (395/1987).

## **Section 217 a (1207/2020)**

### **Overlaying**

Audiovisual content services may not be altered, interrupted or overlaid for commercial purposes without the explicit consent of the audiovisual content service provider.

## **Section 218**

### **Requirements for sponsored programmes and services**

A sponsor may not influence the content and scheduling of sponsored television or radio programmes or audiovisual content services or the insertion of programmes in such a way as to affect the responsibility and editorial independence of the audiovisual content service provider or radio broadcaster in respect of programmes.

Sponsored audiovisual and radio programmes shall be clearly identified by the name or logo of the sponsor at the beginning or end of the programmes.

Sponsored television or radio programmes must not encourage the purchase or rental of the products or services of the sponsor or a third party, in particular by making special promotional references to those products or services.

## **Section 219**

### **Forbidden sponsorship**

An undertaking whose principal activity is the manufacture or marketing of tobacco products may not sponsor programmes, audiovisual content services or radio broadcasting.

If the sponsor of a programme is an undertaking whose activities include the manufacture or sale of medicinal products and medical treatment, the name or logo of the undertaking may be shown in connection with the programme, taking into consideration the provisions of section 218.

However, a medicinal product or medical treatment available only on prescription in Finland may not be promoted in this context.

News and current affairs programmes broadcast on television or in the radio may not be sponsored.

## **Section 220 (1207/2020)**

### **Product placement**

A product, service or trademark may be placed in an audiovisual programme in return for payment (*product placement*) with the exception of news and current affairs programmes, religious programmes and children's programmes.

Also the provision of production props or prices of significant value free of charge to be used in an audiovisual programme is considered to be product placement. Such product placement may be used in other than children's programmes.

## **Section 221**

### **Product placement implementation**

Product placement shall not:

- 1) influence the content of programmes or their placement in programming or how they are placed in the programming or catalogue; (1207/2020)
- 2) encourage the purchase or rental of goods or services;
- 3) constitute advertisements or otherwise refer to products;
- 4) give undue prominence to products.

Product placement of the following products is prohibited:

- 1) tobacco products;
- 2) products from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products;
- 3) specific medicinal products or medical treatments available only on prescription.

Viewers shall be clearly informed of the existence of product placement in audiovisual programmes by means of text or signal that is used uniformly by all audiovisual content service providers. Programmes containing product placement shall be appropriately identified at the start and the end of the programme, and when a programme resumes after an advertising break. This identification shall not take the form of advertising.

By way of exception, product placement need not be identified provided that the audiovisual programme in question has neither been produced nor commissioned by the content service provider itself or an undertaking affiliated with the content service provider and knowledge of the product placement cannot be obtained with reasonable effort.

## **Section 222 (1207/2020)**

### **Time limits for teleshopping spots and television advertising**

The share of advertising and teleshopping spots between the hours of 6 and 18 and between the hours of 18 and 24 may not exceed 20 per cent with the exception of channels devoted to teleshopping spots.

The provisions of subsection 1 shall not apply to:

- 1) announcements made by the television broadcaster or other entities belonging to the same group of broadcasters of their own audiovisual programmes and audiovisual content services;
- 2) ancillary products directly derived from those programmes;
- 3) announcements related to sponsorship;
- 4) product placement;
- 5) ideological and social advertising referred to in section 224;
- 6) teleshopping windows referred to in section 225.
- 7) natural breaks between the editorial content and television advertising or teleshopping spots or between advertising.

### **Section 223 (68/2018)**

#### **Distinguishable radio advertising**

Radio advertising shall be clearly identified as such by acoustic or other means, distinguishing them clearly from other programme service.

### **Section 224**

#### **Ideological and social advertising**

Advertising for the purpose of promoting a matter or cause or the visibility of the associated advertiser or a person's public image (*ideological and social advertising*) shall be kept separate from other parts of the audiovisual programme by acoustic or optical or spatial means.

Ideological and social advertising shall be inserted between audiovisual programmes or its autonomous parts. They may also be inserted during audiovisual programmes in such a way that the integrity and value of the programme and the rights of copyright holders are not prejudiced. Ideological and social advertising may not interrupt broadcasts of religious occasions.

The Act on Audiovisual Programmes (710/2011) shall apply to placement of ideological and social advertising.

## **Section 225**

### **Windows exclusively devoted to teleshopping**

Windows devoted to teleshopping broadcast by a channel not exclusively devoted to teleshopping shall be of a minimum uninterrupted duration of 15 minutes.

They must be clearly identified as teleshopping windows by optical and acoustic means, distinguishing them clearly from other programme service.

## **Section 226**

### **Channels exclusively devoted to teleshopping and self-promotion**

As regards television channels broadcasting exclusively advertising, teleshopping or audiovisual programmes related to self-promotion for the broadcaster, the provisions of the Act on Audiovisual Programmes shall apply to the broadcasting of television programmes that are likely to cause detriment to the development of children due to their violent nature or sexual content or by provoking horror or in another comparable way.

Sections 209 and 210 and section 215, subsection 1 and section 222, subsection 1 of this Act shall not apply to television channels exclusively devoted to transmitting advertising, teleshopping or audiovisual programmes relating to self-promotion of the television broadcaster.

## **Chapter 26 a (1207/2010)**

### **Provisions applicable to video-sharing platform services**

## **Section 226 a (1207/2020)**

### **Scope of application**

This chapter, section 214, subsection 1; chapter 2, section 2 of the Consumer Protection Act; chapter 9 of the Tobacco Act; chapter 7 of the Alcohol Act; and sections 91, 91a-91c, 92a and 93a of the Medicines Act are applied to video-sharing platform services provided by a video-sharing platform provider established in Finland.

## **Section 226 b (1207/2020)**

### **Establishment**

A video-sharing platform provider is deemed to have established in Finland in situations referred to in Article 2, paragraph 1, subparagraph 3 of Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ("Directive on electronic commerce").

Provisions on the establishment in Finland of a video-sharing platform provider in situations referred to in Article 28a, paragraphs 2-4 of the Audiovisual Media Services Directive are issued by Government decree.

## **Section 226 c (1207/2020)**

### **Obligations applicable to a provider of a video-sharing platform**

A video-sharing platform service shall have terms and conditions of use. A video-sharing platform provider shall include in the terms and conditions which:

1) forbid the uploading to a video-sharing platform service such programmes, user-generated videos and audiovisual commercial communication that include:

a) public incitement to an offence made with terrorist intent punishable under chapter 34a, section 1, subsection 1, paragraph 2 of the Criminal Code;

b) distribution of a sexually offensive picture punishable under chapter 17, section 18, subsection 1, paragraph 1 of the Criminal Code;

c) aggravated distribution of a sexually offensive picture depicting a child punishable under chapter 17, section 18a of the Criminal Code;

d) distribution of depictions of violence punishable under chapter 17, section 17 of the Criminal Code;

e) ethnic agitation punishable under chapter 11, section 10 of the Criminal Code;

f) aggravated ethnic agitation punishable under chapter 11, section 10a of the Criminal Code; and

2) under which the requirements of chapter 2, section 2 of the Consumer Protection Act; chapter 9 of the Tobacco Act; chapter 7 of the Alcohol Act; and sections 91, 91a-91c, 92a and 93a of the Medicines Act shall be complied with in audiovisual commercial communication included in the programmes and user-generated videos.

A video-sharing platform provider shall implement the necessary measures to ensure that:

1) the video-sharing platform operates mechanisms for users to flag or report the content referred to in subsection 1, paragraph 1;

2) the video-sharing platform operates systems through which the users are explained what effect has been given to the flagging or reporting referred to in paragraph 1;

3) the video-sharing platform has available a functionality for users to declare whether the videos contain audiovisual commercial communications; and that

4) the users of the video-sharing platform are clearly informed where programmes or user-generated videos contain audiovisual commercial communications if such communications are declared in accordance with paragraph 3 or the video-sharing platform provider has knowledge of it.

The video-sharing platform provider shall comply with the requirements of section 214, subsection 1; chapter 2, section 2 of the Consumer Protection Act; chapter 9 of the Tobacco Act; and sections 91, 91a-91c, 92a and 93a with respect to audiovisual commercial communications that are marketed, sold or arranged by it.



The measures referred to in subsection 2 shall be proportionate to the nature of the content in question and the harm it may cause taking into account the size of the video-sharing platform and the nature of the content provided, the harm it may cause and the rights of the video-sharing platform providers and the users having created or uploaded the content. The measures referred to in this section may not lead to any ex-ante control measures or filtering applied to uploading to the platform.

## **Chapter 27**

### **Must carry obligation of television programmes and channel numbering**

#### **Section 227**

##### **Must carry obligation of television programmes**

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, subsection 1 of the Act on Yleisradio Oy, freely receivable material edited for programmes, and ancillary and supplementary services related to the programmes in terms of television and radio broadcasting in terrestrial mass communications networks;
- 2) television programmes that are receivable in the municipality in which the network is located and in the public interest referred to in section 26 and broadcast by virtue of a national programming licence;
- 3) freely receivable material supplied for a programme referred to in subsection 2, advertisements included in the programmes, and ancillary and supplementary services related to the programmes.

The must carry obligation referred to in subsection 1 above also applies to a telecommunications operator providing a network service in a cable television network, if:

- 1) the telecommunications operator uses other than traditional cable television technology in the transmission of programmes; and

2) the reception of the programmes is possible with conventional reception devices.

However, a telecommunications operator has no must carry obligation if the cable television network capacity is for the operator's use in its television or radio broadcasting or if it is necessary for this purpose in order to meet an operator's reasonable future need. In fulfilling its must carry obligation, a telecommunications operator need not make any improvements in network capacity that would require significant financial investments.

The programmes and associated services referred to in subsection 1 shall be provided to users free of charge. However, a telecommunications operator may require users to pay a reasonable fee for maintenance of the network.

The programmes and services referred to in subsection 1 above shall be provided to users unmodified and simultaneously with the original broadcast.

A community aerial system in a housing company or a real estate company, or any similar system administrator 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 228 (1207/2020)**

### **Channel numbering**

A telecommunications operator in a terrestrial mass communications network and a television and radio broadcaster shall, for its part, ensure that the channel numbering of programming is clear and appropriate from the users' point of view. Any changes in the channel numbering shall be scheduled to take place in connection with the change of the programming licence period. Changes implemented at another time shall have very serious grounds.

Where necessary, Traficom issues a decision on channel numbering. In channel numbering, programmes of the Finnish Broadcasting Company Ltd and a licence holder referred to in section 26 shall receive priority.

## **PART IX**

## **COMMUNICATIONS NETWORKS, SERVICES AND EQUIPMENT**

### **Chapter 28**

#### **Placement**

#### **Section 229 (1207/2020)**

#### **A telecommunications operator's right to place a telecommunications cable, base station and radio mast**

Pursuant to the provisions of this chapter, a telecommunications operator has the right to place in an area owned or controlled by another for the purpose of public telecommunications:

- 1) a telecommunications cable and related equipment, minor structures and poles;
- 2) a mobile network radio mast, base station, related equipment, cable and minor structures;
- 3) a mobile network base station serving as a small-area wireless access point the compliance of which has been ensured as laid down in this Act and which complies with the technical and physical characteristic of the implementing act referred to in Article 57, paragraph 2 of the European Electronic Communications Code and related equipment and cable;
- 4) a mobile network base station other than one referred to in paragraphs 2 or 3 and related equipment and cable.

The placement or deployment of a base station referred to above in subsection 1, paragraph 3 does not need an administrative permit granted by an authority required elsewhere in the law unless reasons relating to the protection of architectural, historic or natural value of buildings, structures or sites or public safety reasons require it.

A base station referred to in subsection 1, paragraphs 3 and 4 and related equipment and cable may also be installed in a building owned or controlled by another under the conditions provided in this chapter. Provisions on further conditions for the placement of structures, network parts and equipment referred to in subsection 1 are separately provided for.

A telecommunications operator shall agree on the placement referred to in subsection 1 with the owner or holder of a property, building or structure. If no agreement is reached with the property or building owner on the placement, the matter relating to placement may be referred to be decided by the municipal building supervision authority.

If a property, building or other structure which is technically suitable for the placement of a base station referred to in subsection 1, paragraph 3 or which is necessary to connect it to a backbone network is controlled by the authorities, the authorities shall, in advance, make available the terms and conditions for the possibility to place a base station on the property, building or structure. The terms shall be fair, reasonable, transparent and non-discriminatory. The grounds referred to in subsection 2 may be taken into account in them. **The authorities shall make the terms and conditions public at a single information point referred to in section 5 of the Act on Shared Roll-out and Use of Network Infrastructure (276/2016).** The authorities shall accept all reasonable requests for access that meet the terms and conditions. A matter relating to placement referred to in this subsection may be referred to be decided by the municipal building supervision authority.

In subsection 5 above, the authorities mean State authorities, municipal authorities and State Enterprises.

An agreement referred to in subsection 1 on the placement of telecommunications cables, radio masts, base stations and related structures and equipment is also binding on a new owner or holder of a property, structure or building.

The provisions in this section regarding an owner or holder of a building or property also apply to owner or occupier of a public area.

## **Section 230**

### **Placement plan**

If the parties cannot reach an agreement on the placement on a property or building owned by another as referred to in section 229, the telecommunications operator shall draw up a plan for the placement (*placement plan*).

A placement plan shall include the following information:

- 1) a map showing the location of telecommunications cables, radio mast and related structures;
- 2) a map of land division showing the property and the existing base stations of the telecommunications operator in the area;
- 3) a document showing the details, construction method and construction timetable for the telecommunications cables, base station or radio mast and related structures and equipment;
- 4) a construction plan showing how the route of the telecommunications cable is to be marked in the ground;
- 5) statement regarding the need to obtain an authority permit for the setting-up;
- 6) maintenance plan for the structures, network parts and equipment to be set up;
- 7) estimate of the energy consumption of the equipment;
- 8) restorative measures after the need for placement ends.

## **Section 231**

### **Publishing a placement plan**

The telecommunications operator shall send notice of the placement plan to all property and building owners and other persons whose benefits or rights are affected by the plan. The notice shall mention the property affected by the plan. The notice shall also mention that the property owners and anyone whose benefits or rights are affected by the plan has the right to file an objection to the placement plan by a certain date.

## **Section 232**

### **Objections**

A property or building owner or other party whose benefit or right is affected by the placement plan has the right to file an objection with the telecommunications operator within 30 days of the publication of the plan referred to in section 231.

## **Section 233**

### **Decision on action in an area or building owned or controlled by another**

If no agreement is reached on the location, the municipal building supervision authority may, by decision following an application by the telecommunications operator, grant an action permit to the telecommunications operator by confirming the placement plan referred to in section 230.

The placement plan can be confirmed if it meets the requirements set forth in section 234. The building supervision authority may request additional information from the telecommunications operator regarding fulfilment of conditions and require changes to the placement plan.

Before a decision referred to in subsection 1 on the placing has become legally valid, the municipal building supervision authority may for a justified reason and provided that enforcement does not render a request for a review useless, grant a permit to carry out construction work or take other action in full or in part (*right to commence*). In other regards, the provisions of section 144 of the Land Use and Building Act (132/1999) apply to the right to commence.

## **Section 234**

### **Requirements for the placement**

A telecommunications cable, radio mast and base station may not be located in conflict with a land-use plan and must not hinder the implementation of existing regional land use plans or local master plans. The placement shall not complicate drawing up land use plans.

The placement of a telecommunications cable, radio mast and base station serving public telecommunication connections referred to in section 229, subsection 1 requires that the placement cannot be organised satisfactorily by some other means and at reasonable cost. Causing undue harm to the property or building shall be avoided when a decision concerning the placement is made. The placement and maintenance of a telecommunications cable, radio mast or base station and the related equipment shall not cause hindrance or damage to the use of the real estate and building that could be avoided at reasonable expense.

Where possible, a telecommunications cable shall be placed in a highway area referred to in the Highways Act (503/2005) or in a public area referred to in the Real Estate Formation Act (554/1995). ([1207/2020](#))

## **Section 235**

### **Amendment or removal of an action permit**

An action permit based on a decision referred to in section 233, subsection 1 may be amended or removed by decision of a municipal building supervision authority if agreed to by the parties.

An action permit may be amended or removed by municipal building supervision authority decision without a telecommunications operator's consent if:

- 1) the action permit has become unnecessary due to a change in circumstances or has lost a substantial part of its significance;
- 2) the burden caused by the action permit has become unreasonable for the property or building concerned and amendment or removal of the permit will not cause substantial harm to the permit holder; or
- 3) the action permit substantially hinders implementation of the local land use plan.

The right to commence referred to in section 233 applies to the decision by a municipal building supervision authority referred to in subsection 2.

## **Section 236**

### **A right related to action permit to undertake construction and maintenance work in an area or building belonging to another**

If it is necessary for the placement of a telecommunications cable or radio mast, a telecommunications operator with a right based on a decision under section 233, subsection 1 may, without the permission of the owner or holder, fell trees and remove other plants from the placement 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 or the operator's subcontractor has the right to access a private area and affix the necessary markings on the ground.

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 himself or herself. An owner or holder of a building shall allow a telecommunications operator with a right based on a decision referred to in section 233, subsection 1 to properly place a base station and related equipment in the building and connect the equipment to the communications network and power grid. If needed, the owner or holder shall allow the telecommunications operator to build any necessary premises. The owner or holder shall grant anyone in the service of the telecommunications operator or the operator's subcontractor access to the building and necessary premises for the purpose of setting-up and maintenance of the base station and related equipment.

A telecommunications operator shall restore the original condition of the area, premises and their surroundings after the work referred to in this section is completed.

## **Section 237**

### **Compensation for the placement**

The right to receive full compensation for any hindrance and damage caused by measures referred to in section 229, subsection 1, paragraph 1 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.

The right to receive full compensation for any hindrance and damage caused by measures referred to in section 229, subsection 1, paragraphs 2-4 lies with the property owner and holder, the owner or holder of a structure and the municipality as owner and holder of a public area. Provisions on the compensation are laid down in the Act on the Redemption of Immovable Property and Special Rights (603/1977, hereinafter *the Redemption Act*. ([1207/2020](#)))

Unless agreement is reached on the compensation, the matter shall be resolved according to the Redemption Act.

## **Section 238**

### **Entry into a Land Information System**



An entry into a Land Information System shall be made upon decision by a municipal building supervision authority referred to in section 233, subsection 1 and section 235, subsections 1 and 2.

### **Section 239**

#### **Application fee**

A telecommunications operator applying for a licence referred to in section 233 is required to pay a fee to the local authority for carrying out their duties, in accordance with a tariff approved by the local authority.

Interest for late payment shall be payable pursuant to the Interest Act (633/1982).

Payments due under subsection 1 of this section are distrainable. The provisions on the collection of payments are laid down in the Act on the Enforcement of Taxes and Public Payments (706/2007).

### **Section 240**

#### **Supervision of placement**

The municipal building supervision authority supervises that the placement within its boundaries complies with its decision based on section 233.

Where necessary, the municipality coordinates the placement of different telecommunications operators' telecommunications cables to ensure as not to cause hindrance and damage that could be avoided at reasonable costs.

### **Section 241**

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

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.

The telecommunications operator shall provide information on the location of telecommunications cables free of charge.

The telecommunications operator shall supply the party carrying out the work with the necessary information and instructions to avoid danger.

### **Section 242 (1003/2018)**

#### **Availability and information security related to the data on location of telecommunications cable**

A telecommunications operator shall digitise the data on the location of telecommunications cable (*cable data*). The telecommunications operator shall ensure that it is technically possible to provide cable data from one central location.

Cable data must be processed in a manner as to properly protect them against information security violations and threats.

Traficom may issue further technical regulations on the digital form of the cable data and the information security when processing them.

## **Chapter 29**

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

#### **Section 243**

#### **Quality requirements for a communications network and service**

Public communications networks and communications services and the communications networks and services connected to them shall be planned, built and maintained in such a manner that:

- 1) the technical quality of electronic communications is of a high standard and information security is ensured;
- 2) the networks and services withstand normal, foreseeable climatic, mechanical, electromagnetic and other external interference and information security threats;
- 3) their performance, functionality, quality and reliability can be monitored;

- 4) significant information security violations and threats against them and other defects and disruptions that significantly interrupt their functionality can be detected;
- 5) access to emergency services is secured as reliably as possible even in the event of network disruptions;
- 6) the health and assets of users or other persons are not put at risk;
- 7) the data protection, information security and other rights of users and other persons are not endangered;
- 8) their billing is reliable and accurate;
- 9) the networks and services do not cause unreasonable electromagnetic or other interference or information security threats;
- 10) they function together and can, if necessary, be connected to another communications network;
- 11) modifications made to them will not cause any unforeseeable disruptions for other communications networks or services;
- 12) if necessary, terminal equipment meeting the requirements of this Act can be connected to them, and they are, if necessary, compatible with a television receiver that meets the requirements of this Act;
- 13) the responsible telecommunications operator is also otherwise able to meet its obligations or those imposed under this Act;
- 14) they function as reliably as possible even in the exceptional circumstances referred to in the Emergency Powers Act (1552/2011) and in disruptive situations under normal circumstances;
- 15) emergency alert messages by authorities can be transmitted to the public as laid down in separate provisions;

16) requests for interception and monitoring, and other requests related to an authority's right to obtain information may be fulfilled in a manner as laid down in separate provisions.

The quality requirements referred to in subsection 1, paragraphs 1–4, 10, 11 and 14 shall be commensurate with the number of users of the communications networks and services, the geographical area served and their significance to the users.

The measures referred to in paragraphs 1, 2, 4, 7 and 9 of subsection 1 related to information security mean measures to ensure the security of operations, communications, equipment and programmes and the security of information material. These measures shall be commensurate with the seriousness of threats, level of technical development to defend against the threat and costs incurred by these measures.

The quality requirements referred to in subsection 1 also apply to significant associated facilities and services related to communications networks and services.

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 serving as basis for the manufacture of telecommunications terminal equipment and for using services provided via the interface. ([456/2016](#))

## **Section 244 (1207/2020)**

### **Regulations on communications networks and communications services**

Traficom may issue regulations relating to quality, information security and interoperability of communications networks and communications services as referred to in section 243. The regulations may cover:

- 1) priority rating, power supply, ensuring maintenance of integrity and redundancy routes;
- 2) electronic and physical protection of a communications network and the related site;
- 3) performance capacity, information security and functionality and their maintenance, follow-up and network management;

- 4) procedures in the event of faults and interference, and maintenance of information security and functionality;
- 5) structure of communications networks and technical characteristics of communications network termination points;
- 6) technical aspects of implementing and safeguarding emergency traffic;
- 7) technical aspects of billing;
- 8) interconnection, interoperability, signalling and synchronisation;
- 9) the technical characteristics of a cable television network, antenna system and community aerial system;
- 10) the technical characteristics of a television network that receives wide-screen television services and wide-screen television programmes;
- 11) the content and structure of the opening page of an electronic programme guide;
- 12) technical documentation and statistics and the form of related documents and their storage;
- 13) standards to be complied with;
- 14) ancillary facilities and related services to the extent that they affect the requirements for communications networks and communications services laid down in section 243;
- 15) the technical determination of the coverage of the communications network;
- 16) other comparable technical requirements set for a communications network or communications service referred to in paragraphs 1-15.

## **Section 244a (1207/2020)**

### **Equipment used in the critical parts of a communications network**

Communications network equipment may not be used in the critical parts of the public communications network if there are weighty reasons to suspect that the use of the equipment could endanger national security or defence so that the use would enable foreign intelligence activities or activities which would disrupt, paralyse or otherwise adversely affect the important interests, basic functions of the society or democratic order of Finland. The critical parts of a communications network are those key functions and measures of a network that are used to control and manage network access and network traffic in a significant manner.

The provisions of subsection 1 also apply to dedicated networks, which have been connected to a public communications network, of operators essential to the vital functions of society, such as nuclear power plants, ports and airports.

In a situation referred to in subsection 1, Traficom may, on its own initiative or on the initiative of a third party, oblige the communications network owner or other holder to remove its communications network equipment from the critical parts of its network. Before making the decision, Traficom shall hear the communications network owner or other holder and reserve it a possibility to remedy the security deficiencies except if the hearing and remedy cannot be implemented as quickly as the urgency of the matter necessarily requires.

Traficom shall give advice to the owner or other holder of a communications network on the interpretation of this section as provided in section 8 of the Administrative Procedure Act (434/2003). Notwithstanding the provisions on secrecy and other restrictions relating to disclosure of information, Traficom has the right to transmit a document or disclose secret information to other authorities if this is necessary to carry out a task in accordance with this section.

Traficom issues further regulations on the technical specification of communications networks and especially their critical parts taking into account the recommendations of the Advisory Board for Network Security referred to in section 244b.

## **Section 244b (1207/2020)**

### **Advisory Board for Network Security**

The Advisory Board for Network Security set up by the Government assesses the overall implementation of national security in communications networks. The Advisory Board has

representatives from the Ministry of Transport and Communications, the administrative branches of the Ministry of the Interior, the Ministry of Defence and the Ministry for Foreign Affairs, the Ministry of Economic Affairs and Employment and from other administrative branches that are vital to communications network security and representatives and interest representatives of the key telecommunications operators.

To support the decision-making by authorities, the task of the Advisory Board for Network Security shall be to monitor the development of communications networks and technology and the application practice of network-security legislation and to handle and make proposals:

- 1) regarding the development of communications networks and technology and the definition of the critical parts of communications networks;
- 2) for the promotion and protection of national security in communications networks, especially in the critical parts of the network;
- 3) for measures to mitigate risks that affect the security of communications networks and the enforcement of national security; and for
- 4) amending the legislation to improve network security.

Notwithstanding the provisions on secrecy, Traficom may disclose information to the Advisory Board necessary for attending to the tasks of the Advisory Board and relating to its own statutory duties if the information is essential for attendance to the tasks of the Advisory Board and does not contain confidential communications, traffic data or location data.

The provisions on the obligation of secrecy and non-exploitation referred to in chapter 23 of the Act on the Openness of Government Activities and criminal liability of a civil servant apply to the members of the Advisory Board in tasks complying with this section. Provisions on liability for damages are laid down in the Tort Liability Act (412/1974).

## **Section 245 (1003/2018)**

### **Requirements for assisting the authorities**

An authority performing interception or monitoring of communications shall submit to Traficom a proposal on the operational quality requirements that the communications network and communications services have to meet.

Traficom decides on a case-by-case basis on the technical requirements imposed on the devices or features used in interception or monitoring of communications after consulting the telecommunications operator and the authority referred to in subsection 1.

A telecommunications operator shall without delay notify the authority referred to in subsection 1 of any changes to its communications networks or services already in their planning stage if these are relevant to interception and monitoring or to the rights of other authorities to obtain information. In addition, the telecommunications operator shall provide any available information on the possible impact of such changes on the authority's own information systems.

Traficom may issue further regulations on the procedure to be used when providing the information referred to in subsection 3.

## **Section 246**

### **Subscribers' and users' terminals and equipment**

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

A subscriber or user may connect to a public communications network only radio or telecommunications terminal equipment that is in working order and conforms to the requirements of this Act.

A subscriber shall maintain equipment or a system to be connected to a public communications network in accordance with instructions from the telecommunications operator so as not to endanger the information security of the public communications network or service.

## **Section 247 (1003/2018)**

### **Obligation of a communications provider or a provider of value-added services to maintain information security**



When transmitting messages, communications providers must maintain the information security of their services, communications, traffic data and location data. However, corporate subscribers as communications providers are responsible for maintaining information security of communications, traffic data and location data of their users only.

Providers of a value-added service shall maintain the information security of their services.

The information security measures must be commensurate with the seriousness of threats, level of technical development to defend against the threat and costs incurred by these measures.

Traficom may issue further regulations on information security referred to in subsections 1 and 2.

#### **247a (281/2018)**

#### **Obligation of providers of online marketplaces, search engine and cloud services to attend to the management of risks posed to communications networks and information systems**

A provider of an online marketplace, search engine and cloud service shall attend to the management of risks posed to the communications networks and information systems in its use. The following shall be taken into account in risk management:

- 1) the security of systems and facilities;
- 2) handling of information security threats and disruptions;
- 3) management of business continuity;
- 4) monitoring, auditing and testing;
- 5) compliance with international standards.

The risk management obligation referred to in subsection 1 above does not apply to micro and small enterprises referred to in Article 16, paragraph 11 of Directive (EU) 2016/1148 of the European Parliament and of the Council concerning measures for a high common level of security

of networks and information systems across the Union, hereinafter *the Network and Information Security Directive*.

## **Section 248**

### **Principle of least convenience**

Any construction, maintenance, changes or information security measures made to communications networks or services by the operator shall be made in a way that causes as little inconvenience to other telecommunications operators as possible.

A telecommunications operator may without the consent of another telecommunications operator temporarily interrupt or restrict the use of a network or communications service if this is necessary to implement the measures referred to in subsection 1. Any interruption or changes shall be announced efficiently to other telecommunications operators whose networks or services they might affect.

## **Section 249 (1003/2018)**

### **Planning and construction of physical infrastructure and internal network for a property or building**

A communications network internal to a property or building to be interconnected to a public communications network must meet the requirements of this Act. A communications network internal to a property or building shall be planned in a manner as to allow, if possible, a subscriber referred to in section 111 to choose a telecommunications operator.

Anyone entering into a construction project shall ensure that the new property or building is equipped with a physical infrastructure that supports high-speed broadband access up to the network access point. An internal communications network that supports high-speed broadband access and meets the requirements of subsection 1 shall be constructed for the property or building in the same connection.

The provisions of subsection 2 apply to a significant refurbishment project of a property or building involving structural changes if the property or building does not have an internal communications network that supports high-speed broadband access and the building of the physical infrastructure and internal communications network is structurally well-founded.

Subsections 2 and 3 above are not applied to a project targeted at:

- 1) a detached house;
- 2) a holiday cottage;
- 3) a building owned and mainly used by a public entity;
- 4) a building into which the construction of a physical infrastructure and internal communications network that supports high-speed broadband access would be clearly unreasonable taking into account the purpose of use of the building and the costs incurred.

Traficom may issue regulations on:

- 1) the technical characteristics of networks to be observed when planning communications networks and the form and contents of the documents related to the planning;
- 2) the technical access point of the communications networks;
- 3) the technical requirements of the physical infrastructure of a property and building that supports high-speed broadband access and the authentication of the capacity of the existing internal communications network of the property and building;
- 4) other technical arrangements comparable to those referred to in paragraphs 1-3 that have an effect on the management of the internal communications network of a property or building.

## **249a (277/2016)**

### **Obligations of a telecommunications operator relating to an internal communications network of a property and a building**

A telecommunications operator may not require that construction, installation and maintenance (*telecommunications contracting*) of an internal communications network of a property or building to be connected to a public communications network can be carried out only by a contractor selected by the telecommunications operator.

A telecommunications operator must not require that a communications network internal to a property or building be interconnected to the operator's own network so as to restrict the management of the internal networks and ability to choose a telecommunications operator.

## **Chapter 29a (52/2019)**

### **Provision of network and communications services relating to the public authority network and public authority communications**

#### **Section 250 (52/2019)**

##### **Subscriptions of the authorities**

Subscriptions entitling to the use of the public authority network and the communications service relating to public authority communications (*subscriptions of the authorities*) may be offered to an authority or another user group that is essential with regard to attending to duties relating to government measures and state security, national defence, public order and security, border security, rescue operations, maritime search and rescue operations, emergency response centre operations, immigration, health care and social welfare emergency services, rail transport safety or civil defence. The Ministry of Transport and Communications decides on the user groups and, where necessary, on the number of subscriptions after hearing the Ministry of Finance.

The provider of a communications service relating to public authority communications grants the individual subscriptions of the authorities to authorities from among the user groups referred to in subsection 1 and to other users upon their proposal.

The holder of a public authority network licence and the provider of communications services relating to public authority communications shall submit a report on the authorities' subscriptions annually to Traficom. The report shall also be submitted to Traficom upon a separate request. Section 316 does not apply to communications pursued when carrying out public authority duties in a public authority network or in communications services related to public authority communications.

#### **250a (52/2019)**

##### **Provider of network services relating to public authority communications**

Network services relating to public authority communications is provided by a telecommunications operator which the provider of communications services has selected on the basis of a competitive tendering process as laid down in section 13 of the Act on the Operation of the Government Security Network.

## **Section 250b (52/2019)**

### **Provision of network services relating to public authority communications**

The provider of network services relating to public authority communications shall ensure the availability of services in situations of congestion of the communications network by providing the authorities' subscriptions priority access to the service in relation to other subscriptions (*high priority service access*) and by allocating or transferring network resources to the authorities' subscriptions in situations of congestion (*admission control and pre-emption*).

The provider of network services relating to public authority communications shall guarantee an adequate level of quality in situations of congestion for the communications of the authorities' subscriptions in relation to other subscriptions by providing them priority in its mobile communications network so that other communications do not prevent the provision of the level of quality necessary for the communications of the authorities' subscriptions in the communications network (*prioritised quality of communications*).

## **Section 250c (52/2019)**

### **Requirements for the provision of network services relating to public authority communications**

The provider of network services relating to public authority communications may restrict the access to the network by other users or the use of the network only to the extent necessary to ensure the availability of services to the authorities' subscriptions in situations of congestion referred to in section 250b.

The provider of network services relating to public authority communications shall ensure that the quality or availability of communications services to other users is not generally reduced. For this purpose, the provider of network services relating to public authority communications shall monitor the impact of the provision of network services to public authority communications on the

availability of services to other users, the network performance capacity and the capacity utilisation rate.

On request of Traficom, the provider of network services relating to public authority communications shall submit a description of the implementation of the high priority service access, the admission control and pre-emption and the prioritised quality of services referred to in section 250b and an assessment of their impact on other users.

## **Section 250d (52/2019)**

### **National roaming for public authority communications**

A telecommunications operator other than one referred to in section 250a shall, on request, provide, under reasonable terms, access to a mobile communications network within the territory of Finland (*national roaming*) to a provider of communications services to enable public authority communications. Such telecommunications operator shall also provide such facilities and services associated with roaming that the implementation of national roaming and the functioning of the services require. The obligation to provide national roaming applies to situations where the mobile network of the network service provider relating to public communications services is not available. The telecommunications operator providing national roaming under subsection 1 above shall also, on request of the provider of communications services relating to public authority communications, provide, under reasonable terms, the high priority service access, admission control and pre-emption and prioritised quality of communications referred to in section 250b. In that case, the provisions of 250c are applied to a telecommunications operator providing national roaming. The provisions of sections 13 and 20 on subcontractors of service provision of the Act on the Operation of the Government Security Network are not applied to the provision of national roaming for public authority communications.

If the provider of communications services relating to public authority communications and the telecommunications operator referred to in subsection cannot agree on the conditions referred to in subsections 1 and 2, Traficom decides on the conditions on request of a party. Traficom may determine the reasonable tariff charged for national roaming with a comparison of charges which may be based on charges levied for direct wholesale access to roaming services which the telecommunications operators in Finland levy from mobile communications network operators for providing wholesale roaming services in Finland for roaming customers whose home network is in another Member State of the European Union or the European Economic Area.

## **Section 250e (52/2019)**

### **Connecting a public authority network to a public communications network**

A telecommunications operator shall connect a public authority network to a public communications network on request and without charge. A provider of a public authority network is not entitled to receive compensation for any communications from a public communications network to a public authority network. A telecommunications operator operating in a public communications network has the right to receive compensation for communications from a public authority network to a public communications network according to the tariffs of the telecommunications operator.

## **Chapter 30 (456/2016)**

### **Conformity of radio equipment and market surveillance**

## **Section 251 (456/2016)**

### **Essential requirements of radio equipment and presumption of conformity**

Radio equipment shall be constructed to meet the following essential requirements:

- 1) requirements relating to the protection of health and safety of persons and domestic animals and the protection of property;
- 2) essential electrical safety requirements irrespective of the voltage limit;
- 3) protection requirements concerning adequate electromagnetic compatibility;
- 4) requirement concerning the efficient use of radio spectrum;
- 5) requirement concerning support for the efficient use of radio spectrum to avoid harmful interference.

The specific requirements of radio equipment belonging to the classes of radio equipment specified in the implementing act referred to in Article 44 of Directive 2014/53/EU of the European Parliament and of the Council on the harmonisation of the laws of the Member States relating to

the making available on the market of radio equipment and repealing Directive 1999/5/EC (*Radio Equipment Directive*) are laid down by Government decree.

Radio equipment which is in conformity with such harmonised standards or parts thereof the references of which have been published in the Official Journal of the European Union shall be presumed to be in conformity with the essential requirements set out in subsection 1 covered by those standards or parts thereof. A harmonised standard means a standard referred to in point (c) of paragraph 1 of Article 2 of Regulation (EU) No 1025/2012 of the European Parliament and of the Council on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council.

### **Section 252 (1003/2018)**

#### **Provision of information on the compliance of combinations of radio equipment and software and registration of certain radio equipment types**

Manufacturers of combinations of radio equipment and software specified in Article 44 of the implementing act of Radio Equipment Directive shall provide Traficom and the Commission with a statement on the compliance of the combinations with the essential requirements laid down in section 251. The information in the statement shall result from a conformity assessment provided for in section 255. The statement shall identify the radio equipment and the software allowing radio equipment to be used as intended. The information shall be kept up to date.

Provisions on the obligation relating to registration and marking of equipment belonging to certain radio equipment classes specified in the implementing act referred to in Article 44 of the Radio Equipment Directive are laid down by Government decree.

### **Section 253 (1003/2018)**

#### **Obligations of the manufacturer of radio equipment**

A natural person or legal person who manufactures radio equipment or has them designed or manufactured on his behalf and who markets the equipment under his name or trademark (*the manufacturer of radio equipment*) shall:



- 1) ensure that the radio equipment is designed and manufactured in accordance with the essential requirements set out in section 251;
- 2) ensure that the radio equipment can be operated in at least one Member State of the European Union in compliance with the requirements on the use of radio spectrum;
- 3) ensure that the instructions that accompany the radio equipment identify the Member States or the geographical areas within a Member State where restrictions on putting into service or requirements for authorisation of use exist;
- 4) draw up the technical documentation referred to in section 258 and carry out or have carried out the conformity assessment procedure referred to in section 255;
- 5) draw up the EU declaration of conformity referred to in section 256 and affix the CE marking referred to in section 257 after compliance of radio equipment has been demonstrated by the conformity assessment procedure;
- 6) keep the technical documentation and the EU declaration of conformity for ten years after the radio equipment has been placed on the market;
- 7) ensure compliance with the conformity requirements of the radio equipment in series production taking into account changes in the radio equipment design or characteristics and in harmonised standards or other technical specifications;
- 8) to protect the health and safety of radio equipment users, carry out sample testing of radio equipment made available on the market and investigate and keep a register of complaints, non-conforming radio equipment and radio equipment recalls and inform distributors of all such monitoring; (1207/2020)
- 9) ensure that radio equipment bears a type, batch or serial number or other element allowing its identification, or, where the size of the radio equipment or other corresponding reason does not allow it, that the required information is provided on the packaging or in a document accompanying the radio equipment;

10) indicate in a language easily understood by radio equipment users and Traficom its name, registered trade name or registered trademark and the postal address with a point at which the manufacturer can be contacted; the information shall be indicated on the radio equipment or, where the size of the radio equipment or other corresponding reason does not allow it, on the packaging of the radio equipment or in a document accompanying it; (1207/2020)

11) ensure that the radio equipment is accompanied with clear, understandable and intelligible instructions and safety information at least in Finnish and Swedish; the instructions shall include information required to use the radio equipment in accordance with its intended use and the information shall include a description of accessories and components, including software, which allow the radio equipment to operate as intended;

12) ensure that the radio equipment is accompanied with information on frequency bands in which the equipment operates and the maximum radio-frequency power of the equipment;

13) ensure that each item of radio equipment is accompanied by the EU declaration of conformity in accordance with section 256.

### **253a (1003/2018)**

#### **Authorised representative**

A manufacturer of radio equipment may, by a written mandate, appoint a natural or legal person established in the European Union to perform the tasks specified in the mandate on its behalf (*an authorised representative*). The obligations provided for in section 253, paragraphs 1 and 4 above may not, however, belong to the mandate of the authorised representative.

The appointed authorised representative shall:

1) keep the EU declaration of conformity and the technical documentation at the disposal of Traficom for ten years after the radio equipment has been placed on the market;

2) subject to a reasoned request from Traficom, provide Traficom with all the information and documentation necessary to demonstrate the conformity of radio equipment;

3) cooperate with Traficom on any action taken to eliminate the risks posed by radio equipment covered by the mandate of the authorised representative.

## **Section 253b (1003/2018)**

### **Obligations of the importer of radio equipment**

A natural or legal person established in the Union who places radio equipment from a third country on the Union market (*an importer of radio equipment*) shall:

- 1) before placing radio equipment on the market, ensure that the manufacturer of radio equipment has carried out the appropriate conformity assessment procedure and drawn up the technical documentation;
- 2) ensure that the radio equipment bears the CE marking;
- 3) ensure that the radio equipment is accompanied by the instructions, information and documents referred to in section 253, paragraphs 10-13;
- 4) ensure that the manufacturer has complied with the requirements set out in section 253, paragraphs 8 and 9;
- 5) indicate in a language easily understood by radio equipment users and Traficom its name, registered trade name or registered trademark and its postal address on the radio equipment or, if that is not possible, on the packaging of the radio equipment in a document accompanying it; (1207/2020)
- 6) ensure that, while the radio equipment is under its responsibility, its storage or transport conditions do not jeopardise the conformity requirement of the radio equipment provided in section 251;
- 7) to protect the health and safety of radio equipment users, carry out sample testing of radio equipment made available on the market, investigate and, where necessary, keep a register of complaints, non-conforming radio equipment and radio equipment recalls and inform distributors of all such monitoring; (1207/2020)

8) for ten years after the radio equipment has been placed on the market, keep a copy of the EU declaration of conformity of the equipment at the disposal of Traficom and ensure that the technical documentation can be made available to Traficom, on request.

### **Section 253c (456/2016)**

#### **Obligations of the distributor of radio equipment**

A natural or legal person in the supply chain, other than the manufacturer or the importer, who makes radio equipment available on the market (*a distributor of radio equipment*) shall, before making radio equipment available on the market:

- 1) ensure that the radio equipment bears the CE marking;
- 2) ensure that the radio equipment is accompanied by the documents, instructions and safety information required in this Act at least in Finnish and Swedish;
- 3) ensure that the manufacturer and the importer of radio equipment have complied with the requirements set out in section 253, paragraphs 2 and 8-13 and section 253b, paragraph 5;
- 4) ensure, while the radio equipment is under the responsibility of the distributor, its storage or transport conditions do not jeopardise the conformity of the radio equipment provided in section 251.

### **Section 253d (1003/2018)**

#### **Obligations of economic operators**

The manufacturer, authorised representative, importer and distributor (*economic operators*) shall ensure that when first making radio equipment available on the Union market (*placing on the market*) or when supplying radio equipment for distribution, consumption or use on the market in the course of a commercial activity, in return for payment or free of charge (*making available on the market*) that the radio equipment complies with the requirements in accordance with this Act. Economic operators shall:

- 1) subject to a reasoned request of Traficom, provide Traficom with all the information and documentation relating to the radio equipment in writing in a language easily understood by Traficom;
- 2) cooperate with Traficom to eliminate any risks posed by radio equipment on the market;
- 3) on request, identify to Traficom any other economic operators who have supplied them or whom they have supplied radio equipment;
- 4) keep the identification information referred to in paragraph 3 for ten years after the supply of the radio equipment.

If an economic operator has reason to suspect that radio equipment which it has placed on the market or made available on the market is not in conformity with the requirements of this Act, it shall immediately take measures to bring the radio equipment into conformity, to withdraw it from the market or to recall it.

If radio equipment made available on the market in Finland presents a risk, the economic operator responsible for it shall also immediately inform the economic operator that has supplied the radio equipment and Traficom of this and give detailed information of the non-compliance and of the corrective measures taken and their results.

### **Section 253e (456/2016)**

#### **Application of the obligations of manufacturers of radio equipment to importers and distributors of radio equipment**

An importer and distributor of radio equipment are subject to the same obligations as the manufacturer of radio equipment if it places the radio equipment on the market under its own name or trademark or modified the radio equipment already placed on the market in a way that may affect compliance with the requirements provided in this chapter.

### **Section 254 (456/2016)**

#### **Display and demonstration of radio equipment**

Radio equipment which does not comply with the requirements of this chapter may be displayed at a fair, exhibitions or similar events if it is clearly indicated that such radio equipment may not be made available on the market or put into service until it has been brought into conformity.

## **Section 255 (456/2016)**

### **Conformity assessment procedures**

The manufacturer of radio equipment shall, before placing the radio equipment on the market, demonstrate whether the essential requirements set out in this Act relating to radio equipment have been fulfilled (*conformity assessment*) using the conformity assessment procedures of its choice. If different configurations or versions have been defined for the radio equipment, the conformity of all of them has to be confirmed.

The conformity assessment shall be performed so that all operating conditions according to the intended use of the radio equipment are taken into account. When assessing conformities relating to the protection of health and safety of persons and of domestic animals and the protection of property, conditions of use which can be reasonably foreseen shall also be taken into account. The manufacturer of radio equipment shall demonstrate conformity of the radio equipment using any of the conformity assessment procedures referred to in Annexes II, III and IV of the Radio Equipment Directive.

## **Section 256 (456/2016)**

### **EU declaration of conformity**

Radio equipment shall be accompanied by an EU declaration of conformity or a simplified EU declaration of conformity which shall include the exact internet address where the full text of the EU declaration of conformity can be obtained. By drawing up the declaration of conformity, the manufacturer assumes responsibility for the compliance of the radio equipment with the requirements laid down in this Act. The EU declaration of conformity shall state that the fulfilment of the essential requirements set out in section 251, subsection 1 has been demonstrated.

The provisions of Annex VI of the Radio Equipment Directive apply to the EU declaration of conformity and the provisions of Annex VII of the Radio Equipment Directive apply to the simplified declaration of conformity.

## **Section 257 (456/2016)**

### **CE marking and the identification number of the notified body**

In order to indicate the conformity of radio equipment, a CE marking shall be affixed to the equipment or to its data plate before the radio equipment is placed on the market. The marking shall be affixed in a visible, legible and indelible manner. The height of the CE marking shall be at least five millimetres. These requirements may be derogated from only if compliance with them is not possible or warranted on account of the characteristics of the radio equipment. The CE marking shall also be affixed visibly and legibly to the packaging of the radio equipment.

The notified body or the manufacturer of the radio equipment or the authorised representative of the manufacturer shall include after the CE marking the identification number of the notified body where the conformity assessment procedure referred to in section 255 was performed. The height of the identification number shall be same as of the CE marking.

## **Section 258 (1003/2018)**

### **Technical documentation of radio equipment**

Technical documentation shall be drawn up before radio equipment is placed on the market and it shall contain all relevant data or details of the means used by the manufacturer to ensure that the radio equipment complies with the essential requirements set out in section 251. The technical documentation shall be kept up to date. The technical documentation shall contain at least the information set out in Annex V of the Radio Equipment Directive.

The technical documentation and correspondence relating to an EU-type examination procedure shall be drawn up in the official language of the Member State in which the notified body is established or in another language acceptable to that body.

If the technical documentation does not comply with the provisions of subsection, Traficom may exhort the manufacturer or the importer of the radio equipment to have a test performed by a body acceptable to the authority at their expense within a specified period in order to verify whether the radio equipment complies with the essential requirements set for it.

## **Section 259 (456/2016)**

### **Approval, monitoring and special tasks of conformity assessment bodies**

A notified body carrying out conformity assessment tasks shall in an EU-type examination comply with the procedure set out in Annex III of the Radio Equipment Directive and in the conformity assessment based on full quality assurance the procedure set out in Annex IV of the Radio Equipment Directive.

A notified body shall require a manufacturer to take corrective measures when the notified body finds that the essential requirements have not been met by the manufacturer. In that case, an EU-type examination certificate or a quality system approval may not be issued. A notified body shall require a manufacturer to take corrective measures also if it finds, in accordance with Annex III or IV, that following the issue of a certificate or approval, the radio equipment no longer complies with the requirements. In that case, the notified body shall also, where necessary, withdraw the EU-type examination certificate or the quality system approval. If corrective measures are not taken or if they do not have the required effect, the notified body shall restrict the certificates or approvals or suspend or withdraw the certificate or the approval, as appropriate.

In other respects, the provisions on the requirements concerning notified bodies carrying out conformity assessment tasks and their tasks are laid down in the Act on Notified Bodies Concerning Certain Product Groups (278/2016).

## **Section 260 (1003/2018)**

### **Procedure for dealing with radio equipment presenting a risk**

If Traficom, on reasonable grounds, deems that radio equipment presents a risk to the health or safety of persons or to other requirements of public interest protection provided in this chapter, it shall carry out an evaluation covering the conformity of the radio equipment.

If Traficom, in the course of the evaluation, finds that the radio equipment does not comply with the requirements laid down in this Act and other measures are not deemed sufficient, Traficom may require the relevant economic operator to take all appropriate corrective measures to bring the radio equipment into compliance with the requirements or to withdraw the radio equipment from the market or to recall it within a reasonable period set by Traficom. Withdrawal from the market means all measures aimed at preventing radio equipment in the supply chain from being made available on the market. Recall means measures the purpose of which is to achieve the



return of radio equipment that has already been made available to radio equipment users and to replace it with a compliant product or to rescind the contract. [\(1207/2020\)](#)

The period set shall be commensurate with the risk resulting from non-compliance.

Traficom shall inform the relevant notified body of non-compliant radio equipment.

If Traficom deems that non-compliance is not restricted to the territory of Finland, it shall inform the Commission and the other Member States of the results of the evaluation and of the actions it has required the relevant economic operators to take.

The economic operator shall ensure that all appropriate corrective action required by one Member State is taken in respect of all radio equipment that it has made available on the market throughout the Union.

If the economic operator does not take adequate corrective action within the period set in accordance with subsection 2, Traficom may take the necessary provisional measures to prohibit the economic operator from placing on the market, making available on the national market or supplying radio equipment found to be non-compliant or to withdraw the non-compliant radio equipment from the market. Traficom may order other ancillary measures necessary to restrict the making available on the market of the product. In addition, the economic operator may be obliged to arrange a recall concerning the radio equipment by collecting back from radio equipment users radio equipment that presents a risk and by replacing it with a compliant product or by rescinding the contract if the measures to withdraw from the market are not sufficient. The provisional prohibition is in force until the matter is finally resolved after the procedure referred to in section 261. [\(1207/2020\)](#)

Traficom may order an economic operator to submit to Traficom within a reasonable period set by it a report on the enforcement of the order of the authority in accordance with subsection 2 and the prohibition in accordance with subsection 7.

## **Section 261 (1003/2018)**

### **Consultation concerning restrictive measures**

Traficom shall, without delay, inform the Commission and the other Member States of provisional measures relating to radio equipment that presents a risk. The notification shall include detailed information that is necessary for the identification of the non-compliant radio equipment, the origin

of the radio equipment, the nature of the non-compliance alleged and the risk involved, the national measures taken and their duration, the arguments put forward by the relevant economic operator and any other available detailed information.

The notification shall indicate whether the non-compliance is due to:

- 1) failure of the radio equipment to meet the essential requirements set out in section 251; or
- 2) shortcomings in the harmonised standards referred to in section 251, subsection 3.

If another Member State or the Commission has not raised an objection in respect of a provisional measure within three months, Traficom may resolve the matter with a final decision and order the radio equipment to be withdrawn from the market and other relevant restrictive measures.

Traficom shall withdraw the measure referred to in section 260, subsection 7 or change it if the Commission considers that the measure infringes European Union law.

If a measure taken by the competent authority of another Member State is considered justified after consultation, Traficom shall take the necessary measures to ensure that the non-compliant radio equipment is withdrawn or recalled also from the Finnish market and inform the Commission accordingly.

## **Section 262 (1003/2018)**

### **Procedure concerning compliant radio equipment which presents a risk**

If Traficom, after the evaluation referred to in section 260, finds that, despite compliance, radio equipment presents a risk to requirements of public interest protected under this Act, Traficom may require the relevant economic operator to take all necessary measures to ensure that the radio equipment no longer presents a risk. Alternatively, Traficom may require the economic operator to withdraw the radio equipment from the market or to recall it within a reasonable period set by Traficom. The period shall be commensurate with the risk.

The economic operator shall ensure that corrective action is taken in respect of all the radio equipment that the economic operator has made available on the market within the Union territory.

Traficom shall immediately inform the Commission and the other Member States of the measures referred to in subsection 1. The information shall include details which are necessary for the identification of the radio equipment, the origin and the supply chain of radio equipment, the nature of the risk involved, the national measures taken and their duration and all other available details concerning the matter.

## **Section 263 (1003/2018)**

### **Correction of formal non-compliance**

Traficom shall require the relevant economic operator, within a reasonable period set and in the manner ordered by Traficom, to put an end to a non-compliance relating to:

- 1) the CE marking is absent or has been affixed in violation of Article 30 of Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marking of products and repealing Regulation (EEC) No 339/93 or of the provisions of this Act;
- 2) the identification number of the notified body is not available or non-compliant;
- 3) the EU declaration of conformity is absent or non-compliant;
- 4) technical documentation is absent or incomplete;
- 5) the identification information of the radio equipment or the contact information of the manufacturer or importer is false or incomplete;
- 6) the instructions and safety information or instructions and information on usage restrictions that accompany the radio equipment are incomplete;
- 7) submission of information to Traficom on other economic operators in accordance with section 253d subsection 2;
- 8) registration of radio equipment belonging to particular categories of radio equipment in accordance with section 252, subsection 2.

If the economic operator does not take action to correct the shortcoming within a reasonable period set, Traficom may take all necessary measures in accordance with section 260, subsection 7 to restrict or prohibit the placing on the market or making available on the market of the radio equipment or, in case of a material shortcoming, to ensure that the radio equipment is recalled or withdrawn from the market.

## **Section 264 (1207/2020)**

### **Radio equipment used for special purposes**

The provisions of sections 251-253, 253a–253e and 254–263 do not apply to:

- 1) radio equipment used solely by radio amateurs and not made available on the market;
- 2) marine equipment referred to in the Act on Marine Equipment (1503/2011);
- 3) aviation equipment defined in Article 138 of Regulation (EU) 2018/1139 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91;
- 4) custom-built equipment kits designed for professionals to be used solely at research and development facilities for purposes relating to their operations;
- 5) radio equipment to be used solely for ensuring public safety, national defence, other state security purposes or state operations in the field of criminal law.

## **Chapter 31**

### **Proficiency and conformity**

## **Section 265 (1003/2018)**

### **Demonstrating proficiency**

Users of radio transmitters for the maritime mobile service or radio amateur service shall have a proficiency certificate issued by Traficom, or a proficiency certificate issued by the competent authority of another country and recognised by Traficom as being valid in Finland.

Notwithstanding the provisions of subsection 1, a radio transmitter may also be used by another person under the direct supervision of the holder of the proficiency certificate. The provisions of subsection 1 do not apply to the Finnish Defence Forces or the Border Guard when they employ radio communication for military defence, nor to their radio equipment used solely for that purpose.

A proficiency certificate is obtained by taking a proficiency examination. Knowledge of the rules, guidelines and equipment pertaining to the type of radio communication in question and the necessary language skills must be demonstrated in the examination. If the proficiency certificate for maritime mobile service is applied because the applicant intends to operate the radio transmitter of a merchant vessel on international shipping intended for safety radio communications, the applicant shall be at least 18 years of age and indicate that he or she meets the medical fitness standards referred to in section 4 of the Act on Medical Fitness Examinations of Seafarers (1171/2010) for obtaining the proficiency certificate. The examination requirements are determined by Traficom, which, by its decision, also appoints the officials of Traficom who act as examiners. Upon application, a party outside Traficom may be appointed as examiner. Examiners must have the skills and experience for the task. In performing his or her duties under this Act, the examiner shall comply with the provisions of the Administrative Procedure Act, the Act on the Openness of Government Activities and the Language Act. Provisions on charges for and number of performances relating to the examination are laid down in the Act on Criteria for Charges Payable to the State (150/1992). ([1207/2020](#))

Traficom grants a proficiency certificate to an applicant who has passed the examination, provided there is no justifiable cause to suspect that the applicant violates the provisions and regulations on radio communication.

Provisions on proficiency with regard to aeronautical mobile service are laid down in the Aviation Act (864/2014).

Traficom may cancel the appointment of an examiner referred to in subsection 3 if the examiner no longer fulfils the requirements for the appointment of examiners laid down in the subsection or

materially violates the provisions and regulations of the subsection concerning activities performed.

Traficom may, where necessary, issue further regulations concerning the work of examiners.

## **Section 266 (1003/2018)**

### **Maintaining proficiency**

The user of a radio transmitter intended for safety radio communication on a merchant vessel in international traffic must demonstrate that he or she has maintained the proficiency stated in the certificate referred to in section 265 within five years of the certificate being issued. Maintenance of the proficiency required may be demonstrated by:

- 1) presenting written evidence of seagoing service and use of safety radio equipment relevant to maintaining proficiency;
- 2) passing an examination; or by
- 3) passing a course approved by Traficom replacing the examination.

Subsections 3, 4, 6 and 7 of section 265 apply to an examination referred to in subsection 1, paragraph 2 above.

Traficom grants a certificate endorsement, on application, to a person who demonstrates that he or she has maintained the proficiency as referred to in subsection 1 and indicates that he or she, with regard to medical fitness or age, meets the requirements for obtaining a certificate endorsement. Traficom may also accept as a demonstration of maintained proficiency a certificate attesting to maintenance of proficiency issued by a competent authority of another country. ([1207/2020](#))

## **Section 267 (1003/2018)**

### **Presentation of proficiency certificates and certificate endorsements, and their period of validity**

The user of a radio transmitter for maritime mobile service or amateur radio service shall, on request, present his or her proficiency certificate or certificate endorsement to representatives of Traficom, the police or the Border Guard, who supervise compliance with the provisions concerning the provisions on certificates and endorsements.

A proficiency certificate is valid until further notice, and a certificate endorsement is valid for five years from the date on which it was issued, the date on which the examination was passed or the date on which the course certificate was issued.

The provisions of subsection 1 do not apply to radio equipment aboard warships of a foreign State, military aircraft of a foreign State, or other aircraft of a foreign State used solely for government purposes.

## **Section 268 (1003/2018)**

### **Revocation of a proficiency certificate or a certificate endorsement**

Traficom may revoke a proficiency certificate or a certificate endorsement if the holder of the certificate or endorsement transmits a false distress signal referred to in chapter 34, section 10 of the Criminal Code by means of a radio transmitter, interferes in radio communications using a radio transmitter in a manner that is punishable under chapter 38, sections 5–7 of the Criminal Code, repeatedly violates the provisions on radio communications or repeatedly and negligently causes harmful interference in radio communications.

## **Chapter 32**

### **Protection and protection decoding systems**

## **Section 269 (1003/2018)**

### **Protecting electronic communications**

Electronic communications and traffic data may be protected using any technical means available for the purpose, unless otherwise provided by law. Implementation of such protection must not interfere with the provision or use of any network service or communications service.

The illegal possession, use, manufacture, importing, offering for sale, leasing, distribution, sales promotion, installation and maintenance of any system or part of a decoding system is prohibited

in cases where such a system or part thereof is intended primarily for unlawful decoding of technical protection and accessing protected television broadcasts, radio broadcasts or remote services personally requested by a recipient.

The provisions of subsection 2 also apply to a decoding system intended to access a separate technical system with conditional access, which protects services referred to in subsection 2.

To ensure compatibility of decoding systems, Traficom has the right to issue regulations on their technical characteristics.

## **Section 270 (1003/2018)**

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

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 terrestrial digital television and radio network.

An undertaking using a decoding system has an obligation to supply another operator with the technical services required by the aforementioned distribution on fair, reasonable and non-discriminatory terms. ([1207/2020](#))

The obligations referred to in subsection 1 above do not, however, apply if the fulfilment of the obligation would be technically inappropriate or otherwise unreasonable for the operator.

Traficom may, by its decision, withdraw the obligation in accordance with subsection 1 if the undertaking that uses a decoding system does not have significant market power as referred to in section 52, if the amendment or withdrawal of the obligation does not prevent the implementation of the must carry obligation in accordance with section 227 or prevent competition on the retail markets of digital television and digital radio services or on the markets of decoding systems or their ancillary facilities. ([1207/2020](#))

An operator providing decoding systems shall separate the operation referred to in subsection 1 from its other activities.

An operator referred to in subsection 1 above has an obligation to ensure that communications network transmission monitoring is possible.



An operator that uses a decoding system in a digital terrestrial mass communication network to provide linear pay-television services has an obligation to provide the television programming referred to in chapter 4 in a manner that ensures the reception of fee-based television services by means of one decoder card or other technical solution, if the pay television service follows a programme schedule that is announced in advance.

If no agreement can be reached between undertakings on the costs incurred in offering technical services referred to in subsection 1 within six months of the commencement of negotiations, and mediation referred to in section 314, subsection 2 has not yielded a solution, Traficom may decide on the compensation payable to the undertaking providing the technical services.

## **Section 271**

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

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.

The holder of the industrial property rights shall not impose terms for granting user rights that would prevent the co-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.

## **Chapter 32a (456/2016)**

### **Public regulated satellite service**

#### **271a (52/2019)**

##### **Provision of public regulated satellite service**

*Public regulated satellite service* means a high-level security service implemented with a satellite navigation system in accordance with the Galileo programme. The system may be provided to user groups referred to in section 250 and to other actors that are critical to the functioning of society. The Ministry of Transport and Communications decides on the user groups that have the right to use the service. Traficom may issue further regulations concerning the manufacture, acquisition, management of keys and use of satellite service technology.

## **Section 271b (1003/2018)**

### **Manufacture of satellite service technology**

The technology needed to implement the satellite service referred to in section 271a above may be manufactured subject to an authorisation of the Security Accreditation Board for European GNSS systems (*the Security Accreditation Board*). The authorisation is applied in writing via Traficom.

## **Section 271c (1003/2018)**

### **Export control**

Unless provided otherwise elsewhere, transport of technology relating to the use, development and manufacture of satellite service outside the European Union is permitted only to countries which are duly authorised to use the satellite service under an agreement with the European Union. The export referred to above is subject to a permit granted by the Ministry for Foreign Affairs. The Ministry for Foreign Affairs shall consult Traficom before granting the permit.

Technology relating to the use, development and manufacture of satellite service may only be transferred to the Member States of the European Union under the conditions laid down by the European Commission. The transfer referred to above is subject to a permit granted by the Ministry for Foreign Affairs. The Ministry for Foreign Affairs shall consult Traficom before granting the permit.

The export, transmission and transfer of technology referred to in subsections 1 and 2 is controlled by the Customs.

In case of export, the declarant shall present the permit referred to in subsection 1 granted by the Ministry for Foreign Affairs when declaring the goods at the Customs. The goods covered by the permit shall then be made available for control by the Customs. In case of transfers within the European Union, the declarant shall present the Customs with the permit referred to in subsection 2 granted by the Ministry for Foreign Affairs at the border customs office when the goods leave the country. The goods covered by the permit shall then be made available for control by the Customs.

## **PART X**

## **MEASURES TO ENSURE THE CONTINUITY OF COMMUNICATIONS AND SERVICES**

### **Chapter 33**

#### **Management of information security and interference and related notifications**

#### **Section 272 (1003/2018)**

##### **Measures taken to implement information security**

A telecommunications operator and a provider of value-added service or any party acting on their behalf has the right to undertake necessary measures referred to in subsection 2 to ensure information security: [\(52/2019\)](#)

- 1) in order to detect, prevent, investigate and commit to pre-trial investigation any disruptions in information security of communications networks or related services;
- 2) in order to safeguard the possibilities of the sender or recipient of the message for communications; or
- 3) in order to prevent preparation of means of payment fraud referred to in chapter 37, section 11 of the Criminal Code to be implemented on a wide scale via communications services.

Measures referred to in subsection 1 above may include:

- 1) automatic analysis of communications content;
- 2) automatic prevention or limitation of transmission or reception of communications;
- 3) automatic removal of malicious software that poses a threat to information security from communications;
- 4) any other technical measures comparable to those referred to in subsections 1–3.

If it is evident due to the type of a communication, form or some other similar reason that the communication contains malicious software or commands, and the measure referred to in subsection 2, paragraph 1 cannot ensure the attainment of the goals referred to in subsection 1,

the content of a particular communication may be processed manually. The sender and recipient of a communication whose content has been manually processed shall be informed of the processing, unless informing them would apparently endanger the attainment of the goals referred to in subsection 1.

Any measures referred to in this section shall be implemented with care, and they shall be commensurate with the seriousness of the disruption being combated. Such measures shall not limit freedom of speech, the confidentiality of communications or the protection of privacy any more than is necessary for the purpose of attaining the goals referred to in subsection 1. Such measures must be discontinued if the conditions for them specified in this section no longer exist.

Traficom may issue further regulations on the technical implementation of the measures referred to in this section.

### **Section 273 (1003/2018)**

#### **Obligation to remedy a hindrance**

If a communications network, service or device creates serious economic or operational hindrance to other communications networks, services or connected services, device, the user or other person, the telecommunications operator or owner or holder of the communications network or device shall take immediate measures to correct the situation and, if necessary, disconnect the communications network, service or device.

Any measures referred to in this section shall be implemented with care, and they shall be commensurate with the seriousness of the disruption being combated. Such measures shall not limit freedom of speech, the confidentiality of communications or the protection of privacy any more than is necessary for the purpose of safeguarding the goals referred to in subsection 1. Such measures shall be discontinued if the conditions for them specified in this section no longer exist. In cases referred to in subsection 1, Traficom may decide on repair measures, including disconnection of a network, service or equipment.

### **Section 274 (1003/2018)**

#### **Disturbance notifications to subscribers and users**

The telecommunications operator shall notify subscribers and users without undue delay of significant information security violations or threats to information security in the services and of anything else that prevents or significantly interferes with communications services. If a significant violation or threat is posed to the information security of an added value service, the added value service provider shall immediately notify the user.

The telecommunications operator and added value service provider shall notify the user of the estimated duration of the disturbance or threat. In addition, they shall inform the subscriber or user of the measures available to them for combating the threat, of the probable costs of such measures, and inform the sources of further information available to them. The telecommunications operator and added value service provider shall retain the data regarding the notifications.

The telecommunications operator shall publish an appropriate notification of the measures taken in a situation referred to in subsection 1 and any effects they may have on the use of that service. Traficom may issue further regulations on the content and form of the notification and publication of information referred to in this section and on retaining of notifications.

## **Section 275 (1207/2020)**

### **Interference notifications to Traficom**

The telecommunications operator shall notify Traficom without delay of significant information security violations or threats to information security in the services and of any other event that prevents or significantly interferes with communications services. A telecommunications operator shall also notify of the estimated duration and consequences of the interference or threat of it and the measures to prevent the reoccurrence of such interference. Traficom submits an annual summary report of the notifications to the Commission and to the European Union Agency for Cybersecurity (ENISA).

A provider of an online marketplace, search engine and cloud service referred to in section 247a above shall notify Traficom without undue delay of significant interference relating to information security directed at its service.

If a notification of interference is in the public interest, Traficom may obligate the telecommunications operator or service provider to inform of the matter or, after hearing the party under the obligation to notify, itself inform of the matter.

Traficom may issue further regulations on when an interference referred to in subsection 1 is significant and on the content, form, and delivery of the notifications referred to in subsections 1 and 2.

Traficom shall evaluate whether the interference referred to in subsections 1 and 2 concerns other Member States of the European Union and, where necessary, inform the Member States concerned. ENISA shall also, where necessary, be informed of the interference referred to in subsection 1.

## **Section 276 (1003/2018)**

### **Interference cooperation working group**

Traficom may designate an interference cooperation working group, consisting of representatives from:

- 1) telecommunications operators;
- 2) network and distribution network holders referred to in the Act on Electronic Markets (588/2013);
- 3) contractors working for operators referred to in subsections 1 and 2;
- 4) operators other than those referred to in subsections 1–3, whose participation is deemed appropriate.

The group's tasks are to:

- 1) plan and harmonise measures required to control the exceptional circumstances referred to in the Emergency Powers Act and disruptive situations under normal circumstances;

2) acquire and submit information needed to control interference situations to support the decision-making of Traficom; and to

3) communicate the information on interference situations collected and analysed by the group to parties who have the capability to reduce the damaging effects of the interference on society.

In addition to the provisions in the Act on the Openness of Government Activities, Traficom may, notwithstanding secrecy provisions, disclose information needed to control interference situations to the cooperation work group members, if the information is necessary for the group in performing its duties and does not contain confidential communications, traffic data or location data.

The provisions on the obligation of secrecy and non-exploitation referred to in chapter 6 of the Act on the Openness of Government Activities and criminal liability of a civil servant apply to the members of the cooperation working group in tasks complying with this section. Provisions on liability for damages are laid down in the Tort Liability Act (412/1974).

## **Section 277 (1003/2018)**

### **Removal of radio interference**

If the operation of radio equipment causes interference in safety radio communications, the use of the radio equipment shall be immediately discontinued.

If a radio transmitter causes interference in radio communications or in other radio equipment, the holder or owner of the radio transmitter shall eliminate or restrict the interference. If the interference is caused by the technical characteristics of a radio receiver, its separate antenna or antenna system, the elimination of the interference is the responsibility of the holder or owner of the radio receiver, unless otherwise provided in this Act or in the licence terms.

Traficom may decide which other measures concerning the technical characteristics or the use of radio equipment shall be undertaken by the holder or owner of the radio equipment to prevent or restrict the interference and its effects.

If both the radio equipment causing, and the equipment suffering from, the interference comply with this Act and with the provisions and regulations issued under it, and if the interference is not minor or caused by interference immunity properties of a separate antenna or antenna system

linked to a radio receiver, Traficom makes a proposal to the parties regarding measures for the elimination of the interference or the restriction of its effects.

If the parties fail to agree on the measures necessary to eliminate the interference or on the amount or allocation of the costs caused thereby, Traficom settles the matter by its decision. The procedures referred to in subsections 2–4 above also apply when radio equipment causes interference to a telecommunications network, telecommunications terminal device or electrical appliance whose interference immunity properties are in accordance with the provisions and regulations issued under this Act and the Electrical Safety Act.

Traficom may issue further regulations on the technical features of a separate antenna or antenna system referred to in subsection 4 to be connected to a radio receiver.

## **Chapter 34**

### **Transmitting emergency calls and messages from the authorities**

#### **Section 278 (1207/2020)**

##### **General emergency number**

A telecommunications operator shall, for its part, be obliged to ensure that all users are able to access the single emergency number 112 by telephone or text message or in another manner laid down in the Act on Emergency Response Centre Operations (692/2010) free of charge.

A telecommunications operator is, without delay, obliged to disclose to an Emergency Response Centre, a Marine Rescue Coordination Centre, or a Marine Rescue Sub-Centre any significant defects or interference within a communications network, network service or communications service that might affect emergency call transmission.

Traficom may issue further regulations on technical measures necessary to meet the obligation referred to in subsection 1.

#### **Section 279 (1207/2020)**

##### **Obligation to broadcast emergency warnings**



A telecommunications operator holding a radio broadcasting licence referred to in section 34 or a programming licence for public interest television broadcasting referred to in section 26 is obligated to broadcast, without delay, to the public an emergency warning, provisions on the issue of which are laid down in the Act on Emergency Warnings (466/2012, *Emergency Warnings Act*). No separate charge may be collected from the user for receipt of an emergency warning. An operator referred to in subsection 1 above shall ensure that an emergency warning can be transmitted also in disruptive situations in normal circumstances and in the exceptional circumstances referred to in the Emergency Powers Act. The operator shall also participate in the regular testing of the emergency warning system arranged at the initiative of the authorities.

Provisions on the liability of the Finnish Broadcasting Company to broadcast an emergency warning and to prepare for television and radio broadcasting in exceptional circumstances are laid down in section 7, subsection 2, paragraph 7 of the Act on the Finnish Broadcasting Company.

The content of the emergency warning may not be changed in transmission.

Traficom may issue further regulations on the transmission of emergency warnings referred to in subsection 1 and response times and on the preparedness for transmission referred to in subsection 2.

## **Section 280 (1207/2020)**

### **Obligation of a telecommunications operator to transmit a targeted message from the authorities**

A targeted message from the authorities means a message to protect people or property transmitted in a mobile communications network by means of an SMS or another message to terminal equipment or subscriber connections within a certain area or areas in situations where informing the public is necessary in circumstances other than those requiring an emergency warning referred to in section 4 of the Act on Emergency Warnings due to a threat to human lives, health or property.

A telecommunications operator is obliged to transmit a targeted message from the authorities if the message is delivered for transmission by an Emergency Response Centre.

The decision on the transmission of a targeted message from the authorities is made by the competent ministry.

A targeted message from the authorities shall be communicated in languages decided by the authorities to terminal equipment and subscriber connections located within the designated areas at the time of transmission of the message. A telecommunications operator may not change the contents of a targeted message from the authorities.

A targeted message from the authorities shall be transmitted as soon as it is possible without causing unreasonable harm to standard network and communications services.

Traficom may issue further regulations on transmission and response times of and preparations for transmission.

## **Chapter 35**

### **Preparedness**

#### **Section 281**

##### **Obligation of contingency planning and preparations for exceptional circumstances**

A telecommunications operator shall ensure that its activities will continue with minimal disruption even in the exceptional circumstances referred to in the Emergency Powers Act and in disruptive situations under normal circumstances.

The radio frequency users and user groups essential to maintenance and supply security must ensure that the use of radio frequencies is efficient and sufficiently free of interference in disruptive situations under normal circumstances and under exceptional circumstances referred to in the Emergency Powers Act. The Ministry of Transport and Communications decides on essential users and user groups of radio frequencies on the proposal of the National Emergency Supply Agency.

#### **Section 282 (1003/2018)**

##### **Contingency planning**

A party referred to in section 281 under a contingency planning obligation shall assess the risks that may disrupt its activities and based on that devise contingency plans on how to continue operations in disruptive situations under normal circumstances using the powers laid down in chapter 9 of the Emergency Powers Act.

A party under the contingency planning obligation shall submit information on its contingency planning to Traficom upon its request. Traficom shall be notified of changes in the delivered information without delay.

Upon request by Traficom, an operator under the contingency planning obligation shall, in individual cases, state its preparedness for an individual interference or threat thereof, and which measures it has taken or plans to take to address the situation under its contingency planning. The obligations referred to in this section do not apply to public authorities.

### **Section 283 (1207/2020)**

#### **Return to Finland of critical communications network system**

A telecommunications operator shall ensure that a communications network system that is critical to the internet access service, telephone service, SMS service and transmission of the programming referred to in section 227 it provides and its guidance, maintenance and control may be returned to Finland without delay when the powers referred to in section 60, subsection 1, paragraph 8 of the Emergency Powers Act are exercised and that the service or system provided by the telecommunications operator can be maintained from a location determined using the procedure referred to in subsection 1 of said section. This obligation does not apply to communications services of minor significance.

### **Section 284 (1003/2018)**

#### **Further provisions on contingency planning**

Traficom may issue further regulations on the contingency planning obligation. The regulations may cover:

- 1) documentation relating to contingency planning referred to in section 282 and their more detailed content ;

- 2) technical measures to minimise the damaging effects of information security violations;
- 3) technical implementation of an obligation referred to in section 283;
- 4) use of frequencies;
- 5) other similar technical issues comparable to those referred to in subsections 1–4.

## **PART XI**

### **AUTHORITY FEES AND COMPENSATION**

#### **Chapter 36**

#### **Authority Fees**

#### **Section 285**

#### **Application fee**

An applicant for a licence provided for in this Act is liable to pay the licensing authority a fee upon lodging the application in the amount of:

- 1) EUR 5,000 for a network licence referred to in section 6, subsection 1 and for a programming licence for digital terrestrial television operations referred to in section 22, subsection 1;
- 2) EUR 1,500 for a programming licence for radio broadcasting referred to in section 22, subsection 1 and in section 34, subsection 1;
- 3) EUR 1,000 for a licence to provide a network service referred to in section 9;
- 4) EUR 300 for a temporary programming licence referred to in section 28.

No application fee need be paid for a licence application concerning a public authority network. The application fee is non-refundable, even if the licence application is withdrawn or rejected.

#### **Section 286 (1003/2018)**

#### **Auction participation fee**

An enterprise, organisation or association registered for an auction referred to in section 11 shall pay a participation fee to Traficom to cover the administrative costs that will accrue to Traficom for arranging the auction. Provisions on the amount of the participation fee are issued by Government Decree.

The participation fee is non-refundable, even if the enterprise, organisation or association does not bid in the auction.

The fee is ordered payable by a decision of Traficom.

### **Section 287 (1003/2018)**

#### **Licence fee**

A telecommunications operator that has been granted a network licence under section 11 shall pay a licence fee to the licensing authority. The licence fee is the highest valid bid provided in section 11, subsection 1.

The licence fee shall be paid in instalments during the licence period. The first instalment of the licence fee may, however, be collected before the commencement of the licence period. Provisions on the payment schedule in other respects are issued by Government Decree. The fee is ordered payable by a decision of Traficom. ([1207/2020](#))

### **Section 288**

#### **Market-based spectrum fee**

Traficom collects, on an annual basis, a market-based spectrum fee, payable to the State, from a holder of a network licence for telecommunications operations and television broadcasting granted by the Government free of charge under section 6, subsection 1, of a continued network licence granted under section 17a and of a renewed network licence granted under section 17b and from the Defence Forces. The fee is collected for frequencies designated in the radio licence provided for in section 39 for:

1) the holder of a network licence;

2) for the network of a holder of a network licence used for television broadcasting other than for public interest television broadcasting;

3) for use of the Defence Forces issued by a regulation of Traficom under section 96.

[\(1207/2020\)](#)

The market-based spectrum fee is calculated according to the following formula:

$B \cdot K1 \cdot Kasuk \cdot Ktark \cdot EUR\ 9,300$

In the equation:

1) B means the frequency amount allocated to the licence holder's network or use of the Defence Forces given in megahertz (MHz).

2) K1 means the frequency band factor, which is determined on the basis of the technical and financial utilisation of the frequency band allocated to use.

3) Kasuk is the population coverage factor, which is determined on the basis of the number of inhabitants in the utilisation area in relation to Finland's population. The value of the population coverage factor is 1 for a utilisation area that covers all of Finland.

4) Ktark is the intended use factor, which is determined by the intended use of the frequencies.

5) the constructed economic value of the frequencies is EUR 9,300 per MHz.

The frequency band factors are as follows:

146–174	MHz	1.9
174.001-240	MHz	2.0
400–862	MHz	2.0
862.001–960	MHz	1.4
1 215–2 200	MHz	1.0

2 200.001–2 700	MHz	0.6
3 400–4 200	MHz	0.4
12 000–14 500	MHz	0.25
17 100–19 700	MHz	0.25
19 700,001–39 000	MHz	0.2

The intended use factors are as follows:

telecommunications operations	1.0
television broadcasting	0.25
military defence	0.15

## **Section 289 (1003/2018)**

### **Information society fee**

A telecommunications operator engaged in operations subject to notification or a licence shall pay an annual information society fee to Traficom.

No information society fee is charged for the turnover from television or radio broadcasting or from retransmission of television or radio broadcasts.

The information society fee is 0.12 per cent of the turnover of the telecommunications operator's telecommunications operations in Finland in the financial period preceding the determination of the fee. However, if the turnover falls below EUR 300,000, there is no payment obligation. ([1207/2020](#))

*Subsection 3 is applied from 1 March 2021.*

Provisions on determining the information society fee for the first year of operations are laid down in section 292.

If a telecommunications operator discontinues its operations before the end of the payment period, the information society fee is not refunded.

## **Section 290 (1003/2018)**

## **Turnover as the basis for the determination of the information society fee**

If a telecommunications operator is part of a group as referred to in chapter 1, section 6 of the Accounting Act, the basis for the telecommunications operator's fee is the operator's share of the total turnover from telecommunications operations in Finland by the group's liable operators deducted by their mutual turnover from these operations. The same applies to a non-Finnish parent undertaking.

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 fee is determined on the basis of the operator's share of the total turnover from telecommunications operations in the previous closed financial period.

If telecommunications operations 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 fee, the confirmed turnover of the transferred telecommunications operations for the previous closed financial period shall be taken into account.

If the financial period of the telecommunications operator does not coincide with the calendar year, the turnover will be converted into a sum corresponding to a calendar year's turnover by multiplying it by 12 and then dividing it by the number of months in the financial period concerned.

Further provisions on how to submit the information necessary for determining the fee to Traficom may be issued by a decree of the Ministry of Transport and Communications.

## **Section 291 (1003/2018)**

### **Determining the information society fee**

The information society fee is collected annually in one instalment. The information society fee is ordered payable by a decision of Traficom. Further provisions on the recovery of fees may be issued by a decree of the Ministry of Transport and Communications.



## **Section 292 (1003/2018)**

### **Submission of information to Traficom and determination of the payment obligation in certain exceptional circumstances**

For the purpose of determining an information society fee, Traficom has the right to obtain from telecommunications operators information on turnover from the period preceding the determination of the fee. Operators belonging to a group shall also give an account on which accounting items arisen from the group's mutual telecommunications operations have been deducted from the turnover of telecommunications under section 290, subsection 1. A telecommunications operator shall submit the information to Traficom within one month of the adoption of the financial statement. A copy of the adopted financial statement and the group financial statement shall be submitted.

Traficom may estimate the turnover forming the basis for the fee if no sufficiently reliable account of the turnover is available due to a missing financial statement or some other comparable, especially weighty reason.

In the estimate, consideration shall be given to:

- 1) telecommunications operator's extent of operations;
- 2) telecommunications operator's position on the market;
- 3) information on the telecommunications operator's services, number of clients and invoicing;
- 4) reference data on other telecommunications operators providing corresponding services;
- 5) other factors comparable to those referred to in subsections 1–4 affecting the telecommunications operator's turnover.

Before estimating the turnover, Traficom shall invite the telecommunications operator to submit the information needed for determining the information society fee within a reasonable period set by Traficom. The recommendation shall point out that Traficom estimates the turnover if no information is provided.

## **Section 293 (1207/2020)**

### **Radio and television broadcasting supervision fee**

The Finnish Broadcasting Company Ltd and a television or radio broadcaster, which has a programming licence referred to in section 22, subsection 1 or section 34, subsection 1, are obliged to pay a radio and television broadcasting supervision fee.

The obligation to pay commences in the calendar year during which six (6) months have passed from the granting of the licence to the television or radio broadcaster. The supervision fee for television and radio broadcasting is not refunded even if the television or radio broadcaster discontinues its operations during the course of the calendar year.

## **Section 294 (1003/2018)**

### **Supervision fees for television and radio broadcasting**

The annual supervision fees for television and radio broadcasting are as follows:

- 1) fee payable by the Finnish Broadcasting Company Ltd is EUR 220,000;
- 2) fee payable by a licence holder carrying out other than regional television broadcasting is EUR 14,000 for each television programming complying with the licence, excluding parallel broadcasts;
- 3) fee payable by a licence holder carrying out regional television broadcasting is EUR 600 for each television programming complying with the licence;
- 4) fee payable by a licence holder carrying out radio broadcasting on frequencies of national or similar licensed use is EUR 6,000 for each radio programming complying with the licence;
- 5) fee payable by a licence holder carrying out radio broadcasting on frequencies of regional or local licensed use is EUR 600 for each radio programming complying with the licence;
- 6) fee payable by a licence holder carrying out radio broadcasting solely in the television network is EUR 6,000 for each radio programming complying with the licence.

The supervision fee for television and radio broadcasting is collected annually in two instalments. The fee is ordered payable by a decision of Traficom.

### **Section 295 (1003/2018)**

#### **Domain name fee**

A domain name registrar shall pay Traficom a domain name fee for entering a domain name in the domain name register and for renewing the entry. An account of the payment shall be given upon entry of the domain name in the register.

Provisions on the amount of the fee are laid down in the Act on Criteria for Charges Payable to the State.

### **Section 296 (1003/2018)**

#### **Numbering fee**

A telecommunications operator and any other party obtaining a number, code or prefix shall pay Traficom a fixed fee to cover the costs incurred for the use of the number, code or prefix, numbering management and supervision; the amount of the fee is determined according to what proportion of the available numbering space is taken by the number in use.

Provisions on the amount of the fee are laid down in the Act on Criteria for Charges Payable to the State.

### **Section 297**

#### **Collection of fees**

If the fee referred to in this chapter is not settled by the due date, annual penalty 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. Instead of the penalty interest, the authority may collect a default payment of five euros if the amount of the penalty interest would be less than that. Fees under this chapter are distrainable. Provisions on their enforcement are laid down in the Act on the Recovery of Taxes and Fees by Recovery Proceedings.

## **Chapter 37**

## **Compensation from the authorities**

### **Section 298**

#### **Costs of contingency preparations**

A telecommunications operator and a television and radio broadcaster have the right to receive compensation for costs incurred in the contingency preparation referred to in chapter 35 from the national emergency supply fund referred to in the Security of Supply Act (1390/1992) if the costs are significant taking into account the nature and extent of the operations of the telecommunications operator or television or radio broadcaster.

Compensation for the costs is decided by the National Emergency Supply Agency, which shall request a statement concerning the compensation application from the Ministry of Transport and Communications.

### **Section 299 (1003/2018)**

#### **Costs incurred by systems acquired for assisting public authorities**

A telecommunications operator has the right to receive compensation from State funds for the direct costs of the investment and maintenance of systems, equipment and software acquired for the sole purpose of assisting public authorities. If necessary, decisions on the compensation for costs are made by Traficom.

The compensation shall be payable by the authority for which the acquisition was made. A telecommunications operator shall not use any systems, equipment or software funded by a public authority for its commercial activities unless specifically so agreed between the authority and the telecommunications operator.

### **Section 300**

#### **Cost of an emergency warning communication system**

An undertaking under the obligation to plan, construct and maintain communications networks and services in accordance with section 243, subsection 1, paragraph 15 has the right to receive compensation for costs caused by the obligation from the national emergency supply fund referred

to in the Security of Supply Act if the costs are significant taking into account the nature and extent of the operations of the undertaking.

The compensation for costs is decided by the National Emergency Supply Agency, which shall request a statement concerning the compensation application from the Ministry of Transport and Communications.

### **Section 301 (1003/2018)**

#### **Costs of a communications system for targeted messages from the authorities**

A telecommunications operator has the right to receive compensation from State funds to meet the obligations related to contingency preparations referred to in section 280 and for the costs incurred in preparing to them.

Compensation may only be received for the direct costs of the investment, use and maintenance of systems, equipment and software acquired to meet the needs notified by a public authority. Compensation may also be received for the direct costs incurred from a measure ordered by a public authority. If necessary, decisions on the compensation for costs incurred are made by Traficom.

A telecommunications operator may not use any systems, equipment or software funded by a public authority for its commercial activities unless specifically so agreed between the authority and the telecommunications operator.

### **Section 301a (1207/2020)**

#### **Compensation for removed communications network equipment**

The owner or other holder of a communications network shall have the right to receive from State funds full compensation for communications network equipment the use of which is banned in accordance with section 244a, subsection 1 or which is ordered to be removed under subsection 3 of said section if the communications network equipment has been taken into use prior to the entry into force of the Act. The basis for the compensation is the actual costs incurred in removing or replacing the communications network equipment and other financial losses. The owner or holder of a communications network shall ensure that the costs incurred in removing or replacing the equipment or caused by other measures remain as small as possible. The

compensation is decided by Traficom. The decision on compensation shall be issued in the same connection as the removal order in accordance with section 244a, subsection 3 or at the latest within four months from the removal order or, if no removal order has been issued, at the latest within four months from a separate application concerning a compensation.

The compensation referred to above in subsection 1 may also be received for communications network equipment taken into use after the entry into force of the Act if the ban of use or removal order relating to the communications network equipment is based on a significant and material change of circumstances or another reason which the owner or holder of the communications network could not have reasonably anticipated.

## **PART XII**

### **ACTIVITIES OF AUTHORITIES**

#### **Chapter 38**

#### **Guidance, supervision and other duties of authorities**

##### **Section 302**

##### **Overall guidance and development**

The Ministry of Transport and Communications is responsible for the overall guidance and development of the activities that fall within the scope of this Act.

The Government ensures 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.

##### **Section 303 (1003/2018)**

##### **General duties of Traficom**

The duty of Traficom is to supervise compliance with this Act and with the provisions and decisions issued under it, unless otherwise provided in this Act.

The decision-making power of Traficom does not extend to a contractual relationship or compensation liability between operators and subscribers or to matters related to the telecommunications operator's right of recourse or return obligation.

Traficom is not responsible for the supervision of requirements related to the protection of health and safety of persons and domestic animals referred to in section 251, subsection 1, paragraph 1 or essential electrical safety requirements referred to in paragraph 2 if they fall under the supervision of another authority.

Traficom does not supervise the provisions laid down in chapter 22, with the exception of sections 176–179 and 190.

Traficom does not supervise the provisions laid down in chapter 28, with the exception of sections 241 and 242.

The duty of Traficom is to promote co-regulatory or self-regulatory measures in the industry if, due to the nature of a matter, co-regulation or self-regulation can safeguard the achievement of objectives laid down in this Act.

Traficom shall consult with the Ministry of Transport and Communications and cooperate with it in preparing regulations by virtue of this Act on matters that include an authorisation to issue decrees or that have a significant effect on the achievement of the objectives of this Act. Traficom shall also consult with the Ministry of Finance in preparing regulations by virtue of this Act on matters which affect the general development of public administration or the development of government structures, steering systems or operations or the steering of government information management, general orientations for electronic communication and information security, information management cooperation between government and municipalities, and Government information management.

## **Section 304 (1003/2018)**

### **Special duties of Traficom**

In addition to that laid down elsewhere in this Act, the duties of Traficom are:

- 1) to promote the functionality, freedom from interference and security of electronic communications;
- 2) to participate in contingency planning and supervise and develop the technical preparedness of the industry for exceptional circumstances;
- 3) to administer radio frequencies, telecommunications and the administration of numbering and codes for communications networks and services;
- 4) to coordinate telecommunications industry standards;
- 5) to issue a call sign of a radio station required for the identification of radio transmissions, and, if necessary, issue regulations on the use of call signs;
- 6) to collect and publish information about the availability, quality and prices of network services and communications services;
- 7) to collect information on violations of and threats to information security in respect of network services, communications services and added value services and on defects and interference situations in communications networks and services;
- 8) to disseminate information on information security matters and on the functioning of communications networks and services;
- 9) to investigate the reasons for interference in radio communications and for disturbance to telecommunications networks, radio equipment, telecommunications terminal equipment and electrical appliances caused by radio or telecommunications terminal equipment;
- 10) to investigate violations of and threats to information security directed at network services, communications services, added value services and data systems;
- 11) to notify the European Commission of cooperation with a European Union Member State resulting in the harmonisation of control measures pertaining to the information security of cross-border communications services which may have an effect on the functioning of the single market;



12) to act as the competent PRS authority in accordance with Decision No 1104/2011/EU of the European Parliament and of the Council on the rules for access to the public regulated service provided by the global navigation satellite system established under the Galileo programme; (350/2019)

13) to act as a single contact and information point in accordance with Regulation (EU) 2018/1807 of the European Parliament and of the Council on a framework for the free flow of non-personal data in the European Union; (1207/2020)

14) to act as a single contact point in questions relating to accessibility of audio visual content services; (1207/2020)

15) to act as a national cybersecurity certification authority in accordance with Regulation (EU) 2019/881 of the European Parliament and of the Council on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act); (1207/2020)

16) to monitor the maximum Union-wide voice termination rates in accordance with a delegated Commission act issued under Article 75 of the Telecommunications Directive; Traficom may require a telecommunications operator to change the voice termination rates if the rates do not comply with the requirements of the delegated act; (1207/2020) and to

17) maintain an independent comparison tool referred to in Article 103, paragraph 2 of the Telecommunications Directive and to accept, upon application of a provider of *a comparison tool*, an independent comparison tool that meets the requirements of the first subparagraph of paragraph 3 of said Article. [\(1207/2020\)](#)

The provisions of sections 302, 303, 308, 309, 311–315, 325, 330–332, 336, 340, 344 and 345 also apply to the supervision of compliance with Regulation (EU) No 531/2012 of the European Parliament and of the Council on roaming on public mobile communications networks within the Union, hereinafter *the EU Roaming Regulation* and with the EU Regulation on electronic communication in the internal market and the consequences of violation and resolution of disputes arising from said Regulations. The Data Protection Ombudsman is responsible for the supervision of the processing of personal data relating to traffic management measures referred to in Article 3, paragraph 4 of the EU Regulation on electronic communication in the internal market.

## **Section 305**

### **Duties of the Data Protection Ombudsman**

The Data Protection Ombudsman shall supervise:

- 1) compliance with the provisions on corporate subscribers' processing of traffic data referred to in chapter 18;
- 2) compliance with the provisions on the processing of location data referred to in chapter 20;
- 3) compliance with the provisions on directory inquiry services referred to in sections 197–199;
- 4) compliance with the provisions on direct marketing referred to in sections 200 and 202–204; compliance with the provisions in chapter 40 on right of access and obligation of secrecy with respect to location data.

A corporate subscriber may be charged a fee for the supervision duties referred to above in subsection 1(1). Provisions on duties subject to a charge and the amount of the charges are laid down in a Ministry of Justice decree in accordance with the criteria in the Act on Criteria for Charges Payable to the State (150/1992).

The Data Protection Ombudsman also supervises the processing of personal data relating to traffic management measures referred to in Article 3, paragraph 4 of the EU Regulation on electronic communication in the internal market. ([456/2016](#))

## **Section 306**

### **Duties of the Consumer Ombudsman**

The Consumer Ombudsman supervises compliance with section 214, subsection 4 with regard to marketing targeted at children. By virtue of the Consumer Protection Act the Consumer Ombudsman also supervises the legality of contractual terms, marketing and procedures followed in customer relationships from the point of view of consumer protection. The Consumer Ombudsman may not interfere with advertising for ideological or societal purposes.

## **Section 307 (1003/2018)**

## **Duties of certain other authorities**

Compliance with section 39 on a radio licence and section 262, subsection 1 on the marking of a telecommunications device is supervised by the police and the Border Guard, in addition to Traficom. Compliance with the provisions and regulations on import of telecommunications devices is supervised by the Customs, in addition to Traficom.

## **Section 308 (1003/2018)**

### **Cooperation among authorities**

The Ministry of Transport and Communications, Traficom, the Data Protection Ombudsman, competition authorities, consumer authorities, market surveillance and product safety authorities and the National Audiovisual Institute shall cooperate to an appropriate degree in fulfilling their duties under this Act. ([1207/2020](#))

Where necessary, Traficom shall work in cooperation with the regulatory authority of a state belonging to the European Economic Area or which is party to the European Convention on Transfrontier Television equivalent to Traficom.

Traficom shall work in cooperation with the authorities supervising network and information security of the Member States of the European Union, with computer security incident response teams and with the Cooperation Group referred to in Article 11 of the Network and Information Security Directive. Traficom submits to the Cooperation Group annually a summary report in accordance with Article 10, paragraph 3 of the Network and Information Security Directive.

## **Section 309 (1003/2018)**

### **Executive assistance**

Traficom has the right to obtain executive assistance from the police, the Customs and the Border Guard for supervising compliance with and implementation of this Act and the provisions and regulations issued under it. Traficom has the right to obtain executive assistance from the Defence Forces for investigating the causes of interference in radio communications.

Upon request, Traficom may provide executive assistance in the form of expert assistance to another authority. The Ministry of Transport and Communications decides on providing executive

assistance. The costs of executive assistance provided by Traficom shall be borne by the authority requesting the executive assistance unless otherwise agreed on.

The provision of executive assistance referred to in subsection 2 above does not give Traficom the right to disclose information to another authority on communications, traffic data, location data or the contents or existence of a confidential radio transmission.

## **Chapter 39**

### **Procedure and consultation**

#### **Section 310 (1207/2020)**

##### **Special consulting obligation**

In addition to the provisions of the Administrative Procedure Act on the obligation of the authorities to hear a party, parties representing telecommunications operators and users shall be reserved an opportunity to present, within 30 days, prior to the issuance of a decision or regulation, their views on matters with a significant impact on the communications markets regarding:

- 1) application notification of a licence;
- 2) regulations regarding telecommunications areas;
- 3) a numbering decision;
- 4) decisions in accordance with chapters 7, 7a and 8-10;
- 5) an amended draft decision in accordance with section 82, subsection 3;
- 6) amendment of the licence terms;
- 7) cancellation of a licence;
- 8) renewal of a licence;

9) a decision in accordance with section 270, subsection 4.

Exceptions to the 30-day time limit can be made in exceptional situations.

A licence holder and the parties representing telecommunications operators and users shall be reserved an opportunity to present their views within three months prior to the decision laid down in section 17a.

### **Section 311 (1207/2020)**

#### **Publication duty of Traficom and the Government**

Traficom shall publish the geographical mapping and forecast referred to in section 51a in so far as they do not include business secrets, the decisions referred to in chapters 7, 7a and 8-10, the regulation regarding the division of telecommunications areas, the numbering decision and the solution to a dispute between telecommunications operators so that they are made available to telecommunications operators and user groups.

The Government must publish licence application announcements and licence decisions in the manner referred to in subsection 1.

### **Section 312 (1003/2018)**

#### **Electronic notification**

With the consent of a party, a matter falling within the competence of Traficom may be handled and a decision submitted by email. The decision or another document relating to the handling of the matter is deemed to have been notified when the party sends an acknowledgement to Traficom of having read the message. If a document need not be supplied verifiably according to the law, the document is deemed to have been received on the third day from sending the message, unless provided otherwise.

Documents or decisions related to domain names may, however, be notified by email to the address provided to Traficom by the party or by the domain name registrar representing the party, in which case the decision or other document is deemed to have been notified on the third day from the sending of the message, unless proved otherwise.

If a party to an administrative matter referred to in this Act or a domain name registrar representing the party has delivered to Traficom contact information that is materially insufficient or defective, or has failed to give essential contact information and this information has not been corrected or complemented later, and, therefore, a document or decision relating to the handling of the matter cannot be notified otherwise than as a public notice referred to in section 62 of the Administrative Procedure Act, Traficom may also notify of the document or decision by publishing a notice of the matter on its website. A decision or another document 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.

### **Section 313 (1003/2018)**

#### **Handling of supervision matters at Traficom**

Traficom may take up matters for examination upon request by a party or on its own initiative. Traficom may prioritise its supervision duties laid down in this Act. Traficom may choose not to examine a matter, if:

- 1) it is likely that a matter is not related to actions contrary to the provisions of this Act or provisions laid down by virtue of it;
- 2) despite a suspected fault or neglect, the matter is of minor significance with regard to the functioning of the communications markets, reliability of communications services, ensuring freedom from interference in electronic communications and the interests of service users or the risk management of services referred to in section 247a; or
- 3) the measure request relating to the matter is obviously groundless.

Traficom shall make the decision not to examine a matter referred to in subsection 2 as soon as it is possible.

### **Section 314 (1003/2018)**

#### **Resolution of disputes between operators at Traficom**

Traficom shall resolve a matter between a telecommunications operator and another undertaking initiated under chapters 7, 7a and 8-10 or section 304, subsection 2 no later than four months

from the date on which the matter became pending. The time limit does not apply to exceptionally extensive cases or cases initiated in exceptional circumstances. The obligations imposed on the parties in connection with the decision shall accord with the provisions of this Act. [\(1207/2020\)](#)

Traficom shall promote cooperation among telecommunications operators and aim at resolving disputes between telecommunications operators primarily through mediation.

If mediation does not produce results within four months, Traficom shall, at the request of a party to the dispute, make a decision on the matter within four months from the end of mediation. The provisions of subsections 1 and 2 also apply, where necessary, to the resolution of such cross-border disputes in which the parties involved are located in several EEA States. When resolving such cross-border disputes, Traficom shall work in cooperation with the regulatory authority of said EEA State.

If the dispute has an impact on trade between Member States, Traficom shall notify the dispute to BEREC for its opinion. Where a cross-border dispute has been notified to said body, Traficom may not resolve the matter before the opinion of BEREC has arrived or the time limit for its issuance has elapsed. Traficom shall issue its resolution at the latest in one month from receipt of the opinion of BEREC. [\(1207/2020\)](#)

## **Chapter 40**

### **Processing of data**

#### **Section 315 (1003/2018)**

##### **General right of access to information of the authorities**

The Ministry of Transport and Communications, Traficom, the Data Protection Ombudsman, the Consumer Ombudsman and other authorities monitoring compliance with the provisions of this Act are entitled to access information necessary to carry out their duties under this Act from anyone whose rights and obligations are governed by this Act or from anyone acting on their behalf. Anyone whose rights and obligations are governed by this Act or anyone acting on their behalf, shall be obliged, at request, to collect and, notwithstanding secrecy provisions and other restrictions on the disclosure of information, supply to the competent authorities any information necessary to carry out their duties.

The information shall be supplied without delay, in the form requested by the authority and free of charge.

Notwithstanding the provisions of subsections 1 and 2, the Defence Forces or the Border Guard are not obligated to disclose information on the structure, use or location of radio equipment used solely for military defence, or information used for payment collection. The provisions of subsections 1 and 2 do not apply to information regarding radio equipment aboard warships of a foreign State, military aircraft of a foreign State, or other aircraft of a foreign State used solely for government purposes.

Separate provisions are issued on the obligation to collect and supply information and on the authorities' right to obtain information on communications, traffic data and location data.

Traficom may issue further regulations on the information to be collected and supplied to it on a regular basis and on the digital form and delivery of the information. The regulations may cover information necessary for:

- 1) supervision of the terms of a network licence referred to in section 16;
- 2) preparation of a market analysis or a decision on significant market power referred to in section 52 or for supervision of the obligations imposed in the decision;
- 3) preparation of a decision concerning designation of a universal service provider referred to in section 85 or for supervision of the obligations imposed in the decision;
- 4) performing the task concerning collection or publishing of information referred to in section 304, subsection 1, paragraph 6; and for
- 5) drafting a geographical mapping referred to in section 51a, subsection 1 and a forecast referred to in subsection 2 and for receipt of the declarations referred to in subsection 4.

[\(1207/2020\)](#)

## **Section 316 (1003/2018)**

### **Processing and erasing communications and location data**



Notwithstanding secrecy provisions and other restrictions on the disclosure of information, Traficom is entitled to obtain any traffic data and location data necessary to investigate defect or interference incidents or to clarify matters related to billing. Anyone who is not acting as a communications service provider referred to in section 136, subsection 4 and who has received or otherwise obtained knowledge of a communication or traffic data not intended for him or her, may disclose the information on the communication or traffic data to Traficom if it is necessary for remedying the defect.

Notwithstanding the secrecy provisions and other restrictions on the disclosure of information, Traficom and the Data Protection Ombudsman are entitled to access any traffic data, location data or communications, if they are necessary for the processing referred to in part VI or to supervise compliance with the provisions on the use of cookies or direct marketing referred to in chapter 24, or to clarify significant violations of or threats to information security. A further requirement is that Traficom or the Data Protection Ombudsman has reason to believe that the essential elements of any of the following offences are present:

- 1) breach of data protection in electronic communications referred to in section 349 of this Act;
- 2) unauthorised use referred to in chapter 28, section 7 of the Criminal Code;
- 3) endangerment of data processing referred to in chapter 34, section 9a of the Criminal Code;
- 4) possession of a data system offence device referred to in chapter 34, section 9b of the Criminal Code;
- 5) criminal damage referred to in chapter 35, section 1, subsection 2 of the Criminal Code;
- 6) secrecy offence referred to in chapter 38, section 1 of the Criminal Code;
- 7) message interception referred to in chapter 38, section 3 of the Criminal Code;
- 8) interference with communications referred to in chapter 38, section 5 of the Criminal Code;
- 9) interference with an information system referred to in chapter 38, section 7a of the Criminal Code;

10) computer break-in referred to in chapter 38, section 8 of the Criminal Code;

11) offence involving a system for accessing protected services referred to in chapter 38, section 8b; or

12) data protection offence referred to in chapter 38, section 9 of the Criminal Code.

Notwithstanding the secrecy provisions and other restrictions on the disclosure of information, Traficom is entitled to information on the existence of radio communications and traffic data, if this is necessary to identify and locate interference in radio communications, to remove or restrict the interference or to prosecute the party causing the interference. Information on other than radio communication intended for general reception may only be given if this is necessary for the purpose of identifying, locating, removing or restricting any interference in safety radio communications or for prosecuting a party causing the interference.

Traficom and the Data Protection Ombudsman shall erase any information on communications, traffic data and location data received under this section when this information is no longer necessary for carrying out the duties provided for in this section or for processing of any criminal case concerning the duties. Information on communications, traffic data and location data shall be erased no later than two years, or 10 years in the case of information pertaining to an investigation of a violation of information security, from the end of the calendar year during which the information was received or a decision or sentence in a criminal case gained legal force.

The right of access to information laid down in this section does not apply to information referred to in chapter 15, section 14 of the Act on Credit Institutions (610/2014) or in chapter 17, section 20, subsection 1 of the Code of Judicial Procedure.

*Chapter 35, section 1, subsection 2 of the Criminal Code was repealed by the Act on the Amendment of the Criminal Code 368/2015.*

## **Section 317 (1003/2018)**

### **Identifying and locating a party causing interference in radio communications**

Traficom may monitor and use traffic data of a radio transmission other than that intended for general reception if this is necessary to identify and locate a party causing interference in radio

communications or a radio transmitter used without a licence, to remove or restrict any interference, or to prosecute a party causing interference. Information on the contents of a radio transmission not intended for general reception may be monitored and information obtained thereby disclosed only if it is necessary to identify, locate, remove or restrict interference in safety radio communications or to prosecute a party causing interference.

The provisions of section 136, subsection 4 do not prevent the giving of information to Traficom about the existence of a radio transmission and its traffic data if this is necessary to identify and locate any interference in radio communications, to remove or restrict any interference, or to prosecute a party causing interference. Information on the contents of a radio transmission may be given only if it is necessary to identify, locate, remove or restrict interference in safety radio communications or to prosecute a party causing interference.

Traficom shall destroy information on confidential radio communications after it is no longer needed to adequately ensure interference-free radio communications or to process administrative matters or criminal cases relating to interference. The information shall be destroyed no later than two years, or if the information is needed to ensure interference-free safety radio communications, no later than 10 years from the end of the calendar year during which the information was received or the decision or sentence in an administrative matter or criminal case gained legal force.

## **Section 318 (1003/2018)**

### **Supply of information from an authority**

Notwithstanding secrecy provisions or other restrictions on the disclosure of information, the Ministry of Transport and Communications, Traficom, the Data Protection Ombudsman, the Finnish Competition Authority, market surveillance and product safety authorities and the National Audiovisual Institute have the right to supply documents that they have received or drawn up in the course of performing their statutory duties and to disclose confidential information to each other, if this is necessary for performing their statutory duties. ([1207/2020](#))

Notwithstanding secrecy provisions or other restrictions on the disclosure of information, Traficom has the right to supply a document it has received or drawn up in the course of performing its statutory duties and to disclose confidential information to the Energy Authority, the Financial Supervisory Authority, the National Supervisory Authority for Welfare and Health and the Centre

for Economic Development, Transport and the Environment if this is necessary for performing their duties relating to information security.

Notwithstanding secrecy provisions or other restrictions on the disclosure of information, Traficom and the Ministry of Finance have the right to supply documents that they have received or drawn up in the course of performing their statutory duties and disclose confidential information to each other, if this is necessary for performing their duties relating to network and communications services relating to public authority network and public authority communications. ([52/2019](#))

The Ministry of Transport and Communications and Traficom have a right to supply any confidential documents and to disclose confidential information to the Commission, BEREC and a regulatory authority of another EEA State if this is necessary for the supervision of the communications markets. Traficom has the right to supply a document it has received under section 170, subsection 1, paragraph 7; section 171; and section 275, subsections 1 and 2 and disclose confidential information to a regulatory authority of another EEA State and to the Cooperation Group referred to in Article 11 of the Network and Information Security Directive if this is necessary for the supervision of network and information security and the disclosure does not endanger the interests relating to security or business secrets of the actors referred to in said sections or the confidentiality of the disclosed information. ([1207/2020](#))

The right to supply and disclose referred to in this section does not apply to information on communications, traffic data, location data or the contents or existence of a confidential radio transmission.

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

## **Section 319 (1003/2018)**

### **Secrecy obligation and disclosure of information related to communications**

Any information on communications, traffic data, location data and the content or existence of confidential radio transmissions received or acquired by Traficom and the Data Protection Ombudsman under sections 316 and 317 shall be kept secret.

Notwithstanding the confidentiality obligation of subsection 1 or other restrictions on the disclosure of information, Traficom is entitled to disclose traffic data and other information received in connection with collecting information on and investigating violations of information security to the following:

1) communications providers, added value service providers, corporates or associations, subscribers and users if they have been abused in a violation of information security, have or are likely to become the subject of a violation of information security, and if Traficom has a reason to believe that an offence referred to in section 316, subsection 2, paragraphs 1–12 has been committed;

2) authorities or other bodies that operate in another state with the task of preventing or investigating information security violations directed at communications networks and services. Traficom has the right to disclose information as provided in subsection 2 only to the extent necessary to prevent and investigate violations of information security. The disclosure of information may not limit the protection of confidential communications and privacy any more than is necessary.

The provisions of subsection 1 shall not prevent the disclosure of traffic data to another authority if this is necessary to solve or prosecute an offence relating to causing radio interference or to remove or restrict radio interference.

In defining the authorities and other parties referred to in subsection 2, paragraph 2, Traficom shall work in cooperation with the Ministry of Transport and Communications. If the decision on an object of the disclosure could have social relevance or impacts on the general development of the electronic communications services, the Ministry of Transport and Communications decides to which authorities or other parties Traficom may disclose the information referred to in subsection 2.

## **Section 320 (1003/2018)**

### **The right of access to information of the Defence Forces and the Border Guard**

The Defence Forces and the Border Guard have the right, notwithstanding the confidentiality obligation, to obtain from Traficom any information on frequency usage that is important for contingency planning and preparedness for exceptional circumstances. The right of access to

information does not apply to information on communications, traffic data, location data or the contents and existence of a confidential radio transmission.

### **Section 321**

#### **The right of access to information of authorities receiving emergency calls**

A telecommunications operator is obliged to disclose the following to an Emergency Response Centre, a Marine Rescue Coordination Centre, a Marine Rescue Sub-Centre or the police for processing purposes:

- 1) location data and subscriber connection identifier of the subscriber connection and terminal device from which an emergency call is placed, and information on the subscriber, user and installation address; and
- 2) location data of the subscriber connection or terminal device used by the person subject to the emergency call and information on the subscriber connection identifier, subscriber, user and installation address if the person, in the considered opinion of the authority receiving the emergency call, is in obvious distress or immediate danger.

### **(1207/2020)**

The information referred to in subsection 1 above shall be released notwithstanding the confidentiality obligation referred to in section 136 and the requirements for processing location data referred to in sections 160 and 161, and without reference to what the subscriber or user may have agreed with the telecommunications operator concerning the confidentiality of such information.

An added value service provider has the right to disclose the information referred to in subsection 1 to the respective authority.

### **Section 322 (118/2018)**

#### **Right of access to information of certain other authorities**

Provisions on the right of the authorities to receive traffic data to prevent, uncover and investigate offences are laid down in the Police Act, the Act on Crime Prevention by the Border Guard (108/2018), the Act on the Processing of Personal Data by the Border Guard (639/2019), the Act

on Crime Prevention by the Customs (623/2015), the Act on the Processing of Personal Data by the Customs (650/2019) and in the Coercive Measures Act. ([655/2019](#))

Data to be retained under section 157 above can only be obtained from operators under the retention obligation by the authorities who have a legal right to obtain the data.

### **Section 323 (1003/2018)**

#### **Non-remuneration of measures and information supply ordered by an authority**

A telecommunications operator shall free of charge supply a public authority with any information in its possession:

- 1) necessary to maintain public order and safety, investigate, uncover and prevent an offence or maintain rescue operations in performing statutory duties; and
- 2) to which the authority has a right subject to separate provisions.

A telecommunications operator shall, free of charge, take measures that allow interception by the authorities as provided in the law.

In cases where the health or lives of humans are at risk, the disclosure of the information or the measure shall be implemented urgently.

A public authority shall implement, at its own expense, a system with which it may receive and process the information referred to in subsection 1 or carry out interception referred to in subsection 2. The public authority shall also be responsible for the costs of connecting the system of the public authority to a public communications network or service. The telecommunications operator shall, however, perform the switching of emergency traffic free of charge.

Traficom may issue further regulations on the implementation of the measures and information requests and their time limits referred to in subsections 1 and 2.

## **Chapter 41**

### **Inspections and prevention of radio interference**

## **Section 324**

### **Limitations to the scope**

The provisions of sections 326 and 327 and section 329, subsection 3 do not apply to the Finnish Defence Forces or the Border Guard when they employ radio communication for military defence, nor to the radio equipment they possess solely for that purpose.

The provisions of section 326 and section 329, subsections 2 and 3 do not apply to radio equipment aboard warships of a foreign State, military aircraft of a foreign State, or other aircraft of a foreign State used solely for government purposes.

The provisions of section 326, subsections 1 and 2 and section 329, subsection 2 do not apply to radio transmitters of warships or aircraft of a foreign State other than those referred to in subsection 2. Likewise, section 329, subsection 3 does not apply to said radio transmitters if the holder or user of the radio transmitter, on request, presents a licence or certificate complying with the provisions in section 267, subsection 1 and section 326, subsection 3.

## **Section 325 (1003/2018)**

### **Right to inspect of Traficom**

Traficom has the right to perform a technical safety or function inspection or financial inspection of a telecommunications operator in order to supervise compliance with the obligations imposed in this Act and in provisions, regulations and decisions issued under it. Traficom has the right to perform an inspection in an undertaking manufacturing or using satellite service technology referred to in section 271b to determine whether it complies with the decisions of the Accreditation Board and the regulation of the public regulated satellite service. Provisions on the inspection are laid down in section 39 of the Administrative Procedure Act.

A public authority network and the provider of *network service relating to public authority communications* may also be subject to a technical safety and function inspection. [\(52/2019\)](#)

Traficom has the right to have a technical safety and function inspection and an inspection concerning satellite service technology carried out by an independent expert. When expert inspectors carry out the duties referred to in this section, the provisions concerning criminal liability of a civil servant apply to them. Provisions on liability for damages are laid down in the



Tort Liability Act. The telecommunications operator subject to the technical safety and function inspection carried out by an independent expert bears the costs of the inspection. ([1207/2020](#))

In connection with a technical safety or function inspection or a financial inspection, Traficom and anyone acting on its behalf has the right to access the telecommunications operator's equipment facilities and other premises and, notwithstanding the secrecy provisions, obtain for examination documents and information that are necessary for its supervision duty.

In connection with an inspection concerning satellite service technology, Traficom and anyone acting on its behalf has the right to access the equipment facilities and other premises of the organisation manufacturing or using satellite service technology and, notwithstanding the secrecy provisions, obtain for examination documents and information that are necessary for its supervision duty.

The inspections may not be performed in premises that are used as a permanent residential space.

## **Section 326 (1003/2018)**

### **Inspection of radio equipment**

In order to supervise compliance with this Act and the provisions, regulations and decisions issued under it, Traficom has the right to perform an inspection at the location of:

- 1) a radio transmitter the possession of which requires a radio licence referred to in this Act or the use of which requires a proficiency certificate or a certificate endorsement referred to in this Act;
- 2) radio equipment that is found or, on reasonable grounds, is suspected to have operated or to be operating in violation of the provisions or regulations or to cause interference;
- 3) an electrical appliance referred to in section 97, subsection 2 that is found or, on reasonable grounds, is suspected to have operated or to be operating in violation of the provisions or regulations or to cause interference;
- 4) radio equipment that is marketed or is intended to be placed on the market;
- 5) a decoding system referred to in section 269, subsection 2.

Traficom also has the right to enter a location where the equipment referred to in subsection 1 is, on reasonable grounds, suspected to be found. However, an inspection may be carried out in a place used as a permanent residential space only if it is necessary to clarify aspects subject to the examination and if there are special grounds to suspect that the provisions in section 348, subsection 1, paragraphs 1–3 of this Act or sections 5–7 or 8b of chapter 38 of the Criminal Code have been violated.

Upon request, the holder, user or owner of radio equipment shall present the radio licence in its possession to Traficom, the Border Guard or the police.

### **Section 327 (1003/2018)**

#### **Removing equipment for examination**

In order to supervise radio equipment markets or if there is reason to suspect that the requirements provided for in chapter 30 on radio equipment placed on the market or made available on the market have not been complied with or that the protection of an electronic communication provided for in section 269 has been unlawfully decoded, an inspector of Traficom shall have the right to remove the radio equipment and its documents for examination and to prohibit the use of the equipment and making it available on the market for the duration of the examination. The examination shall be carried out without delay. The party whose equipment has been removed for examination shall be furnished with a document stating the equipment removed for examination and the reason for the examination.

If the radio equipment removed for examination complies with the requirements of this Act and the provisions and regulations issued under it and its value has decreased because of the examination, the owner shall, on request, be paid a compensation for the device corresponding to its current price.

If the radio equipment fundamentally violates this Act or the provisions or regulations issued under it, Traficom may oblige the manufacturer or importer of the equipment to compensate for the costs incurred in the examination.

### **Section 328 (1003/2018)**

#### **Ensuring efficient and interference-free use of radio frequencies**

Traficom has the right to inspect radio communications and its technical implementation to ensure the efficient and interference-free use of radio frequencies.

## **Section 329 (1003/2018)**

### **Prevention of radio interference**

Traficom has the right to prohibit radio equipment from being placed on the market, made available on the market or used, and to prohibit the use of a certain type of electrical appliance referred to in section 97, subsection 2, if it has caused harmful interference or is, on reasonable grounds, suspected to cause harmful interference.

Traficom also has the right to prohibit radio equipment from being imported, marketed, sold, transferred or used if, on reasonable grounds, it is suspected that the radio equipment is likely to interfere in the planned use of radio frequencies referred to in sections 95 or 96.

Traficom has the right to inspect and remove for examination radio equipment , if there are reasonable grounds to suspect that the radio equipment or its use does not comply with this Act or with the provisions or regulations issued under it or it has caused or is likely to cause harmful interference. Traficom may, in this case, also make the radio equipment temporarily inoperative if this does not impose a disproportionate burden or damage to the owner of the radio equipment with regard to the circumstances. The provisions of section 327 otherwise apply to the removal of radio equipment for examination.

## **Chapter 42**

### **Supervision decisions and coercive measures**

## **Section 330 (1003/2018)**

### **Supervision decision**

Traficom, the Data Protection Ombudsman and the municipal building supervision authority may, in carrying out their duties under this Act, issue a complaint to anyone who violates this Act or the provisions, regulations, decisions or licence terms issued under it, and order him or her to rectify the error or neglect within a reasonable time limit.

The provisions of chapter 2, sections 16, 17, 19 and 20 of the Consumer Protection Act apply to compliance with the provisions supervised by the Consumer Ombudsman and referred to in section 306.

## **Section 331 (1003/2018)**

### **Interim decision**

If an error or neglect concerning this Act or the provisions, regulations, decisions or licence terms issued under it represents an immediate and serious threat to public safety, public security or public health or creates a serious economic or operational hindrance to other undertakings, subscribers or users or to the functioning of communications networks and services, Traficom may, without delay, decide on necessary interim measures regardless of the time limit provided for in section 330.

Prior to issuing a decision on an interim measure, Traficom shall reserve the recipient an opportunity to be heard except if the hearing cannot be arranged as quickly as the urgency of the matter requires.

As an interim measure, Traficom may terminate the operations representing a threat or serious hindrance. Traficom may also restrict the use of frequencies or order another comparable coercive measure. Interim measures may be valid for a maximum period of three months. Traficom may extend the interim measures by a period of up to three months if the fault or neglect has not been rectified within the period prescribed. A review may be separately requested of a decision concerning interim measures in the same manner as of a decision referred to in subsection 1.

## **Section 332**

### **Conditional fines, threat of termination and threat of completion**

A conditional fine or a threat of termination or a threat of having a measure completed at the defaulter's expense may be imposed in support of the obligation imposed in accordance with sections 330 or 331 above.

The provisions of subsection 1 on the threat of termination shall not apply to obligations referred to in sections 176–179 or 190.

Provisions on conditional fines, threat of termination and threat of completion are laid down in the Act on Conditional Fines. The costs of measures completed at the defaulter's expense are paid provisionally from State funds and recovered from the defaulter. The recovered costs are distrainable. The provisions on their collection are laid down in the Act on the Enforcement of Taxes and Public Payments.

### **Section 333 (1003/2018)**

#### **Penalty fee of a telecommunications operator**

A telecommunications operator that acts in violation of an obligation imposed under sections 53, 53a, 54 or 55 or of a commitment made binding under section 81a and, despite being exhorted, fails to rectify its actions within a reasonable period of at least three months may be ordered to pay a penalty fee. A penalty fee may also be ordered on an undertaking which intentionally or through gross negligence provides misleading, false or incomplete information in connection of the procedure referred to in section 51a and, despite being exhorted, fails to rectify its actions within a reasonable period of at least three months. ([1207/2020](#))

A penalty fee may not be ordered if the action has no significant effect on the markets or if the ordering of the penalty fee is otherwise manifestly unjustified with regard to safeguarding competition. It is also possible to refrain from ordering a penalty fee if the telecommunications operator has been or will be ordered to pay a penalty payment referred to in the Competition Act for a corresponding act or omission.

In determining a penalty fee, the nature and extent of the action, its duration and any penalty payment imposed for a similar breach or neglect under the Competition Act shall be taken into account. The minimum amount of the penalty fee is EUR 1,000 and the maximum is EUR 1 million. If the act or omission has especially significant effects on the market, said amount may be exceeded. The penalty fee may, however, be no more than five per cent of the turnover of the telecommunications operator for the provision of electronic communications networks and services in the previous year.

The penalty fee is ordered by the Market Court on proposal of Traficom. The provisions of the Market Court Proceedings Act (100/2013) apply to the consideration of a case in the Market Court. The penalty fee is ordered payable to the State.

## **Section 334 (1003/2018)**

### **Penalty fee of a television or radio broadcaster**

A television or radio broadcaster that acts in violation of the provisions of sections 25 and 26 and, despite being exhorted, fails to rectify its actions within a period set by a supervisory authority referred to in section 303 or 306, may be ordered to pay a penalty fee.

A penalty fee may not be ordered if the action has no significant effect on the attainment of the objectives laid down in chapters 25 and 26, or if the ordering of the penalty fee is otherwise manifestly unjustified with regard to their safeguarding.

In determining a penalty fee, the nature, extent and duration of the action shall be taken into account. The minimum amount of the penalty fee is EUR 1,000 and the maximum is EUR 1 million. If the act or omission has especially significant effects on the attainment of the objectives referred to in sections 25 and 26, said amount may be exceeded. The penalty fee may, however, be no more than five per cent of the television or radio broadcaster's turnover for the operations subject to a licence of the previous year.

The penalty fee is ordered by the Market Court on proposal of Traficom or, in cases referred to in section 214, on proposal of the Consumer Ombudsman. The provisions of the Market Court Proceedings Act apply to the consideration of a case in the Market Court. The penalty fee is ordered payable to the State.

## **Section 335**

### **Enforcement of penalty fees**

A penalty fee is distrainable. The provisions on its collection are laid down in the Act on the Enforcement of Taxes and Public Payments. Enforcement of a fee is attended to by the Legal Registers Centre. Provisions on the obligation of the authorities to notify, with significance to penalty fee enforcement, of the refund of a penalty fee and of other corresponding factors that are necessary for penalty fee enforcement and further provisions on the enforcement of a penalty fee may be given by Government Decree.

## **335a (579/2020)**

### **Penalty fee for violation of certain provisions on electronic direct marketing**

The penalty fee imposed for violation of section 200 and 201 and section 203, subsection 2 of this Act is governed by the provisions of the Act on Certain Powers of the Consumer Protection Authorities (566/2020).

### **Section 336 (1003/2018)**

#### **Prohibiting an unfair term of agreement in the provision of communications services**

Traficom may prohibit from continuing the application of an agreement term in breach of section 107 or from renewing the application of such, or a similar term, where this is necessary in order to protect the consumers. ([1207/2020](#))

Traficom may impose a conditional fine in support of the prohibition decision. A conditional fine is ordered payable by the Market Court.

A review of the decision of Traficom referred to in subsection 1 or 2 may not be requested. A telecommunications operator may refer a prohibition decision for consideration by the Market Court within 30 days after being notified of the decision of Traficom. Otherwise the decision remains in force. The provisions of the Market Court Proceedings Act (100/2013) shall apply to the consideration of the case in the Market Court.

### **Section 337**

#### **Closing a number or service**

The Consumer Ombudsman may, under threat of a fine, order a telecommunications operator to close a number or otherwise bar the use of a service if it is evident that the service seeks unlawful financial benefit by providing information in marketing that is essentially false or misleading with regard to subscribers and users, and if fees resulting from the service accumulate on the subscriber's communications service bill. The Consumer Ombudsman may also issue a temporary decision, which remains in force until a final decision has been reached in the matter.

In a decision under subsection 1, the Consumer Ombudsman shall order a telecommunications operator immediately after having been informed of the decision to discontinue billing for the content service and terminate the payment of funds which have accumulated or are yet to accumulate from the service, to the service provider or another telecommunications operator.

Prior to issuing a decision under subsection 1, the Consumer Ombudsman shall reserve the telecommunications operator and service provider an opportunity to be heard, except if the hearing cannot be arranged as quickly as is necessary with a view to the urgency of the matter. A review of the decision of the Consumer Ombudsman referred to in subsection 1 may not be requested by appeal. A telecommunications operator or a party whose service has been barred may refer a decision other than a temporary decision to the Market Court within 30 days after being notified of the decision. Otherwise the decision remains in force. The provisions of the Market Court Proceedings Act (100/2013) shall apply to the consideration of the case in the Market Court.

If a decision of the Consumer Ombudsman referred to in subsection 1 remains in force, a telecommunications operator shall without delay and no later than 30 days from the final resolution of the matter reimburse users in full for the fees paid by them for the service. If funds accumulated to the telecommunications operator for the service are insufficient to cover the claims of all subscribers, the funds shall be returned in proportion to the claims. The amount to be reimbursed shall be paid annual interest in accordance with the reference rate referred to in section 12 of the Interest Act.

### **Section 338 (1003/2018)**

#### **Suspension of television broadcasting**

Traficom may order suspension of television broadcasting referred to in section 3 in full or in part, if the operator, despite the measures laid down in sections 330–332 or 334, seriously and repeatedly violates this Act or provisions and regulations issued under it in its television broadcasting.

### **Section 339 (1207/2020)**

#### **Suspension of retransmission of television broadcasting and on-demand programme service programming**

The Government may order that the retransmission of television programming and on-demand programme service programming from outside Finland be suspended for a maximum period of one month if said programming manifestly and repeatedly:



1) is guilty of ethnic agitation punishable under chapter 11, section 10 of the Criminal Code or of aggravated ethnic agitation punishable under section 10a;

2) grossly violates the provisions of section 6 of the Act on Audiovisual Programmes;

2) is guilty of public incitement to an offence made with terrorist intent punishable under chapter 34a, section 1, subsection 1, paragraph 2 of the Criminal Code.

If a television broadcaster responsible for television programming or an on-demand programme service provider responsible for on-demand programme service programming referred to in subsection 1 is established in an EEA Member State, the procedure laid down in Article 3, paragraphs 2 and 3 of the Audiovisual Media Services Directive shall be complied with in ordering the suspension of the retransmission. If the television broadcaster is established in a State outside the European Economic Area but which is a party to the European Convention on Transfrontier Television, the procedure provided in Article 24, paragraphs 1 and 2 of said Convention shall be complied with in ordering the suspension of retransmission of television programming.

### Section 340 (1003/2018)

#### Prohibiting telecommunications operations

If, despite the consequences referred to in sections 331–334, a telecommunications operator seriously and materially violates or fails to comply with the provisions of this Act or the regulations or decisions issued under it, Traficom may prohibit the telecommunications operator from engaging in telecommunications. Traficom may prohibit the operations of a telecommunications operator in full or in part.

Until a decision referred to in section 52 has been made, Traficom may prohibit the provision of a service or a service entity causing significant hindrance to competition.

### **Section 341**

#### **House search, area search or bodily search**

If weighty grounds exist to suspect that an offence referred to in chapter 38, section 7 of the Criminal Code or section 348, subsection 1, paragraph 2 or 3 of this Act has been committed in a place governed by the provisions on domiciliary peace, a house search or a search of an area and

bodily search may be conducted, notwithstanding the provisions of chapter 8, section 2, subsection 1, section 4 and section 31, subsection 1 of the Coercive Measures Act, in order to find illegal radio equipment or telecommunications terminal equipment or to solve the offence. A further prerequisite is that the search or inspection is necessary to achieve its aims.

## **Chapter 43**

### **Review**

#### **Section 342 (1003/2018)**

##### **Request for an administrative review**

A service operator under the retention obligation may request for an administrative review of a decision concerning the data retention obligation referred to in section 157 from the Ministry of the Interior.

An administrative review may be requested for a decision by Traficom concerning a radio licence referred to in section 39, a radio frequency reservation decision referred to in section 44, a numbering decision referred to in section 100, a market-based spectrum fee referred to in section 288, an information society fee referred to in section 289 and a television and radio broadcasting supervision fee referred to in section 293.

An administrative review may be requested for a decision concerning the conformity certificate of a notified body. An administrative review may be requested from Traficom for a decision rejecting a proficiency examination performance issued by an external examiner referred to in section 265, subsection 3 and appointed by Traficom.

Provisions on the procedure for requesting an administrative review are laid down in chapter 7a of the Administrative Procedure Act.

#### **Section 343 (1003/2018)**

##### **Appeal to the Market Court**

An appeal against a decision by Traficom made under chapter 21, section 295 and section 312, subsections 2 and 3 is filed with the Market Court. In its decision, Traficom may order that the

decision shall be complied with regardless of appeal, unless otherwise decided by the Market Court.

The provisions of the Market Court Proceedings Act apply to the handling of an appeal referred to in subsection 1 in the Market Court.

Traficom has the right to appeal against a decision made by the Market Court.

### **Section 344 (1207/2020)**

#### **Request for a review with an administrative court**

Provisions on requesting a judicial review with an administrative court are laid down in the Administrative Judicial Procedure Act (808/2019). The provisions of said Act are also complied with when requesting for a review of a decision of a municipal authority.

With the exception of decisions referred to in sections 233 and 235, an authority or a notified body that has made the decision may order that the decision be complied with notwithstanding request for a review, unless the reviewing authority otherwise orders.

In derogation from subsection 2, a Traficom decision on the conveyance of broadcasting rights referred to in section 213 shall be complied with notwithstanding request for a review, unless the reviewing authority otherwise orders.

### **Section 345 (1207/2020)**

#### **Request for a review by appeal to the Supreme Administrative Court**

In derogation from the provisions of the Administrative Judicial Procedure Act, a review may be requested for a decision by appeal to the Supreme Administrative Court concerning:

- 1) a Government decision made under this Act;
- 2) a decision of Traficom issued under sections 52, 53, 53a, 54 and 55 or concerning supervision of compliance with such a decision;
- 3) a decision of Traficom issued under section 85;

4) a decision of Traficom issued under section 314 on supervision relating to the EU Roaming Regulation;

5) a decision of the Market Court made under this Act, with the exception of a decision referred to in sections 336 and 337, for which a review is requested as provided in the Market Court Proceedings Act.

A decision of the Government and Traficom referred to in subsection 2, paragraphs 1–4 above shall be complied with notwithstanding request for a review, unless the reviewing authority otherwise orders. The appeal shall be handled as urgent.

## **PART XIII**

### **OTHER PROVISIONS**

#### **Chapter 44**

##### **Penal provisions**

#### **Section 346**

##### **Television and radio broadcasting violation**

Anyone who deliberately carries out television or radio broadcasting without a programming licence referred to in section 22, subsection 1, in sections 26 and 28 or in section 34, subsection 1 or without submitting a notification provided for in section 4, subsection 1 or in violation of a prohibition issued under sections 338 and 339, shall be sentenced to a fine for *a television or radio broadcasting violation*.

A sentence is not passed if the offence is minor.

#### **Section 347**

##### **Decoding system violation**

Anyone who violates a prohibition related to a decoding system or part of a decoding system provided in section 269, subsection 2 in a manner other than that prescribed in chapter 38, section

8b of the Criminal Code shall, unless a more severe penalty for the act has been provided elsewhere in law, be sentenced to a fine for *a decoding system violation*.

A prosecutor may not bring charges for a decoding system violation unless the injured party reports the offence for the bringing of charges or unless a very important public interest requires that charges be brought.

A sentence is not passed if the offence is minor.

## **Section 348 (456/2016)**

### **Radio equipment violation**

Anyone who unlawfully

- 1) puts into service or uses a radio transmitter without the radio licence provided in section 39, or uses a radio transmitter without the required proficiency provided in section 265 or the required conformity provided for in section 266;
- 2) violates a prohibition on prevention or restriction of interference imposed under section 329 or a supervision decision issued under section 330;
- 3) violates an obligation imposed under section 260, subsection 7 or section 262, subsection 1 due to a risk connected to radio equipment or the prohibition issued under section 327 in connection with removal of the equipment for examination; or
- 4) violates an obligation imposed under section 263, subsection 2 due to a formal non-compliance of radio equipment,

shall, unless a more severe penalty for the act has been provided elsewhere in law, be sentenced to a fine for *a radio equipment violation*.

Anyone who violates a prohibition or obligation ordered under section 332 and enforced by threat of a fine or threat of suspension of activities cannot under subsection 1 be sentenced to punishment for the same act.

A sentence is not passed if the offence is minor.

## **Section 349**

### **Data protection violation in electronic communications**

Anyone who deliberately

- 1) neglects its obligation to request consent and provide information provided in section 205, subsection 1;
- 2) neglects its obligation to ensure the information security of its services or traffic data and location data provided in section 247;
- 3) neglects its notification obligation under section 275, subsection 1 or section 278, subsection 2;
- 4) processes traffic data in violation of the provisions of sections 136–144 or location data in violation of the provisions of subsections 1–4 of section 160, or section 161 or neglects its disclosure obligation regarding the processing or the regulations issued by the authorities;
- 5) neglects to comply with the provisions of sections 152–154 on drawing up and issuing a report or a prior notification to the user, the employees' representative or the Data Protection Ombudsman;
- 6) neglects the obligation to save information on data processing referred to in section 145 or the obligations laid down in section 158, subsection 3;
- 7) neglects the provisions on the rights of users and subscribers laid down in section 162;
- 8) neglects the provisions on itemisation of a bill laid down in section 134;
- 9) neglects to comply with the provisions of sections 197–199 regarding the processing of personal data contained in directory inquiry services, the notifying of subscribers regarding the purpose and use of such services, the removing and rectifying of information, the right to prohibit use or the rights of legal persons; or

10) carries out direct marketing, markets subscriber connections or saves or uses data in violation of sections 200-203 or section 205,

shall, unless a more severe penalty for the act has been provided elsewhere in law, be sentenced to a fine for *data protection violation in electronic communications*.

A sentence is not passed if the offence is minor.

## **Section 350**

### **References to the Criminal Code**

Provisions on a penalty for an offence involving a system for accessing protected services are laid down in chapter 38, section 8b of the Criminal Code.

Provisions on a penalty for message interception are laid down in chapter 38, section 3, for aggravated message interception in chapter 38, section 4, and for computer break-ins in chapter 38, section 8 of the Criminal Code. The sentence for a breach of the secrecy obligation provided in section 136, subsection 4 and section 160, subsection 5 of this Act is passed in accordance with chapter 38, section 1 or 2 of the Criminal Code, unless the offence is punishable under chapter 40, section 5 of the Criminal Code or unless a more severe penalty for the act has been provided elsewhere in law.

## **Chapter 45**

### **Entry into Force**

#### **Section 351**

##### **Entry into Force**

This Act enters into force on 1 January 2015.

This Act repeals:

- 1) the Act on Television and Radio Operations (744/1998);
- 2) the Act on Radio Frequencies and Telecommunications Equipment (1015/2001);
- 3) the Act on the Prohibition of Certain Decoding Systems (1117/2001);

- 4) the Act on Provision of Information Society Services (458/2002);
- 5) the Domain Name Act (228/2003);
- 6) the Communications Market Act (393/2003);
- 7) the Act on the Protection of Privacy in Electronic Communications (516/2004);
- 8) the Act on Auctioning Certain Radio Frequencies (462/2009).

Section 106, chapter 15 and section 135 of this Act enter into force on 1 July 2015. Sections 61; 66; 67; 67a–67i; 68; 69a; 70; 70a; 71; 72; 73–79; 79a; 81; 82; and 83a are applied until 30 June 2015. ([1217/2014](#))

The Domain Name Act is applied until 4 September 2016. Chapter 21 on domain names, section 295 and section 312, subsection 2 and subsection 3 of this Act enter into force on 5 September 2016 with regard to a domain name registrar representing a party.

Section 201 of this Act is in force until 1 July 2021. ([1266/2018](#))

Section 227, subsection 1, paragraphs 2 and 3 of this Act are in force until 31 December 2016.

Section 288, subsection 1, paragraph 3 of this Act enters into force on 1 January 2024.

Section 304, subsection 2 of this Act is in force until 30 June 2022.

Section 43, subsections 3 and 4 of the Communications Market Act are applied until 31 December 2015.

## **Section 352 (1003/2018)**

### **Transitional provisions**

Processing of administrative matters pending at the time of the entry into force of this Act is governed by the provisions in force upon the entry into force of the Act.

A network or a programming licence, a radio transmitter licence, a call sign of a radio station and a proficiency certificate and a certificate endorsement in force upon the entry into force of this Act remain in force for the period stated in it.

The Act on Auctioning Certain Radio Frequencies applies to licences granted under it until their expiration.



The rights and obligations of telecommunications operators laid down in the Communications Market Act remain in force until Traficom has made its first decision on significant market power complying with section 52 of this Act and, as a result, imposed rights and obligations under this Act on telecommunications operators. The termination obligations of telecommunications operators under the Communications Market Act shall be confirmed by a decision of Traficom, where necessary.

The rights and obligations of telecommunications operators laid down in section 59 of the Communications Market Act remain in force until Traficom has made its first decision on the introduction of the designation procedure in accordance with section 85 of this Act.

The obligation set under section 134, subsection 1, paragraph 3 of the Communications Market Act to transmit in the network, free of charge, freely receivable television programming that are in the public interest and broadcast by virtue of a national programming licence, which are the programmes of MTV3 by MTV Oy and Nelonen by Sanoma Entertainment Oy remains in force until the licences complying with section 26 of this Act enter into force.

An obligation of a television broadcaster set under section 15a, subsections 1 and 2 of the Act on Television and Radio Operations to transmit emergency warnings to the public in television programming remains in force until licences complying with section 26 of this Act enter into force.

An obligation of a radio broadcaster set under section 15a, subsections 1 and 2 of the Act on Television and Radio Operations to transmit emergency warnings to the public in radio programming remains in force for the period referred to in the programming licence issued to a radio broadcaster under section 7, subsection 1 of the Act on Television and Radio Operations.

Section 229, subsection 4 of this Act does not apply to agreements entered into prior to the entry into force of this Act.

Section 288, subsection 1, paragraph 1 applies to licences granted after the entry into force of this Act.

If, in another Act or in the provisions issued under it or in a decision issued under an Act repealed by this Act, references are made to an Act that was repealed by this Act, the reference is deemed to mean a corresponding provision in this Act.

