

Naghti l-kunsens tieghi.

(L.S.)

EDWARD FENECH ADAMI
President

28 ta' Dicembru, 2007

ATT Nru. XXX ta' l-2007

ATT biex jemenda diversi ligijiet li għandhom x'jaqsmu mal-komunikazzjonijiet u biex jagħmel provvedimenti dwar affarijiet ancillari magħhom jew li għandhom x'jaqsmu magħhom

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2007 li Jemenda Diversi Ligijiet dwar il-Komunikazzjoni. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att għandu jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għall-komunikazzjonijiet jista' jistabbilixxi b'avviż fil-Gazzetta u jistgħu jiġu hekk stabbiliti dati differenti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

Taqsimha I

Emenda ta' l-Att dwar ir-Radjokomunikazzjoni.

2. (1) Din it-Taqsimha temenda l-Att dwar ir-Radjokomunikazzjoni, u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar ir-Radjokomunikazzjoni, hawn iżjed 'il quddiem f'din it-Taqsimha imsejjah "l-Att prinċipali". Emenda ta' l-Att dwar ir-Radjokomunikazzjoni. Kap. 49.

(2) Din it-Taqsima ghandha tibda ssehħ f'dik id-data li l-Ministru responsabbli għall-komunikazzjoni jista' jappunta b'avviz fil-Gazzetta u jistgħu jiġu hekk appuntati dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

Emenda ta' l-
artikolu 2 ta' l-Att
prinċipali.

3. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) minnufih qabel it-tifsira “apparat għar-riċezzjoni tax-xandir” għandha tiżdied din it-tifsira ġdida li ġejja:

“ “apparat” tfisser kull apparat intiż għar-radjokomunikazzjoni u tinkludi kull parti komponenti ta' apparat bħal dak;” ; u

(b) minnufih qabel it-tifsira “Malta” għandhom jiżdiedu dawn it-tifsiriet ġodda li ġejjin:

“ “dan l-Att” tinkludi r-regolamenti kollha magħmulin taħt dan l-Att;

“awtorizzazzjoni ġenerali” tfisser il-qafas stabbilit b'dan l-Att jew tahtu u li jistipula d-drittijiet u l-obbligazzjonijiet ta' persuni li jkunu qegħdin jużaw jew li jkollhom fil-pussess tagħhom xi apparat ta' radjokomunikazzjoni bħal dak li l-Ministru jista' minn żmien għal żmien u skond id-disposizzjonijiet ta' dan l-Att isemmi b'ordni fil-Gazzetta bħala koperti b'awtorizzazzjoni ġenerali;

“liċenza” tfisser liċenza individwali mahruġa skond dan l-Att u tinkludi kull awtorizzazzjoni ġenerali tkun kif tkun deskritta li tkun tapplika fir-rigward ta' xi apparat ta' radjokomunikazzjoni, skond ma jista' jiġi provdut taħt l-artikolu 19 ta' dan l-Att;”.

Emenda ta' l-
artikolu 2A ta' l-Att
prinċipali.

4. L-artikolu 2A ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (5) tiegħu;

(b) minnufih wara s-subartikolu (1) tiegħu, għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

“(2) L-Awtorità ta' Malta dwar il-Komunikazzjoni tista' toħroġ kull awtorizzazzjoni ġenerali li tkun tirrigwarda apparat ta' radjokomunikazzjoni skond ma l-Ministru jista'

minn żmien għal żmien b'ordni fil-Gazzetta jistabbilixxi li jkun kopert minn dik l-awtorizzazzjoni ġenerali:

Iżda kull dritt li jista' jithallas fir-rigward ta' awtorizzazzjoni ġenerali bħal dik għandu jiġi stabbilit mill-Ministru:

Iżda wkoll il-fakoltà li tinhareġ awtorizzazzjoni ġenerali għandha tinkludi l-fakoltà li jiġu emendati d-drittijiet, kundizzjonijiet u speċifikazzjonijiet dikjarati f'awtorizzazzjoni ġenerali bħal dik.

(3) Meta tkun qegħda tinhareġ jew tiġi emendata awtorizzazzjoni ġenerali l-Awtorità ta' Malta dwar il-Komunikazzjoni għandha l-ewwel tippubblika dikjarazzjoni dwar l-awtorizzazzjoni ġenerali proposta jew ta' l-emendi li jkun sejrin isiru fiha, hekk li l-partijiet interessati jingħataw l-opportunità li jikkummentaw fuq l-awtorizzazzjoni ġenerali proposta jew l-emendi li jkunu sejrin isiru fiha sa terminu li l-Awtorità ta' Malta dwar il-Komunikazzjoni tqis li jkun raġonevoli.

(4) L-Awtorità ta' Malta dwar il-Komunikazzjoni għandha tiżgura li kull awtorizzazzjoni ġenerali jew l-emendi li jkunu sejrin isiru fiha jingħataw pubbliċità.”; u

(ċ) fis-subartikolu (5) tiegħu kif enumerat mill-ġdid, minnufih wara l-kliem “skond is-subartikolu (1)” għandhom jiżdiedu l-kliem “u, jew kull tismija li ssir b'ordni skond is-subartikolu (2)”.

5. L-artikolu 3 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 3 ta' l-Att prinċipali.

(a) minflok is-subartikolu (1) tiegħu għandu jidhol dan li ġej:

“3. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (11) ebda persuna m'għandha, minghajr ma jkollha liċenza individwali mogħtija bil-miktub mill-Ministru, tagħmel, tixtri, tbiegħ jew ikollha fil-pussess tagħha jew taht il-kontroll tagħha ebda apparat.

(2) Bla hsara għad-disposizzjonijiet tas-subartikolu (11) ebda persuna m'għandha tbiegħ jew tagħti apparat lil xi persuna li ma tkunx kisbet liċenza individwali kif hemm imsemmi fis-subartikolu (1) ta' dan l-artikolu.

(3) Il-Ministru jista' jehtieg lil kull persuna li:

(a) jkollha fil-pussess taghha jew taht il-kontroll taghha xi apparat li jkun jikkontravjeni d-disposizzjonijiet ta' dan l-Att u, jew ta' xi kundizzjonijiet tal-liċenza li jistghu jkunu japplikaw ghal dak l-apparat, jew

(b) tkun qeghda tuza jew tippermetti li dak l-apparat jiġi użat fuq frekwenzi mhux awtorizzati,

li tiegħaf mill-użu ta' apparat bhal dak u, jew jehtieg lil dik il-persuna tikkonsenja l-apparat lill-Ministru:

Iżda l-Ministru jista' jeleva u jzomm apparat bhal dak u, jew jara li l-użu ta' apparat bhal dak ikun ristrett b'kull mod , taht dawk il-kundizzjonijiet u ghal dak il-perjodu ta' żmien li l-Ministru jista' jispeċifika meta jkun jirriżulta lill-istess Ministru li dak l-apparat ikun qieghed jiġi użat b'kontravvenzjoni ta' dan l-Att jew ta' xi kundizzjonijiet tal-liċenza li jistghu jkunu japplikaw fir-rigward ta' dak l-apparat:

Iżda wkoll l-ispejjeż kollha li l-Ministru jagħmel fl-eżerċizzju tal-funzjonijiet tiegħu taht dan is-subartikolu inklużi dawk li jagħmel meta jeleva, iżomm jew iqieghed f'post ta' hżin, ikun kif ikun dan kollu deskritt, dak l-apparat, għandhom jiġu rkuprati bhala dejn ċivili mill-Ministru minghand kull persuna li taġixxi b'kontravvenzjoni ta' dan l-artikolu.”;

(b) is-subartikoli (2) sa (6) tiegħu għandhom jiġu enumerati mill-ġdid bhala s-subartikoli (4) sa (8) rispettivament;

(c) minflok is-subartikolu (5) tiegħu kif enumerat mill-ġdid, għandu jidhol dan li ġej:

“(5) Kull min jikser id-disposizzjonijiet ta' dan l-artikolu jew jaġixxi b'kontravvenzjoni ta' xi pattijiet, kundizzjonijiet jew limitazzjonijiet, ikunu kif ikunu deskritti, li jkunu jinsabu fil-liċenza, jkun hati ta' reat kontra din it-Taqsima ta' dan l-Att.”; u

(d) minnufih wara s-subartikolu (8) tiegħu kif enumerat mill-ġdid, għandhom jiżdiedu dawn is-subartikoli ġodda li ġejjin:

“(9) M'hi mehtieġa ebda liċenza għal riċevituri tax-xandir li jkunu għas-smiġh biss.

(10) Il-Ministru jista', wara konsultazzjoni ma' l-Awtorità ta' Malta dwar il-Komunikazzjoni, jeżenta b'ordni fil-Gazzetta lil ċertu kategoriji ta' apparat mill-htigiet ta' dan l-artikolu.

(11) Id-disposizzjonijiet tas-subartikoli (1) u (2) ta' dan l-artikolu m'għandhomx japplikaw fir-rigward ta' apparat li jkun regolat b'awtorizzazzjoni ġenerali mahruġa skond id-disposizzjonijiet ta' dan l-Att.” .

6. Minnufih wara l-artikolu 3 ta' l-Att prinċipali għandu jiġdied dan l-artikolu ġdid li ġej:

Żieda ta' l-artikolu 3A ġdid ma' l-Att prinċipali.

“Infurzar.

3A. (1) Persuna li tkun debitament awtorizzata mill-Ministru biex taġixxi f'ismu meta tkun qegħda teżerita xi setgħa taht dan l-Att, għandha, jekk tintalab tagħmel dan minn persuna konċernata, turi lil dik il-persuna sabiex din tkun tista' tispezzjonah ċertifikat mahruġ mill-Ministru fejn ikun hemm dikjarat li hija tkun debitament awtorizzata taġixxi għal u f'isem il-Ministru.

(2) Fil-kors ta' l-eżerċizzju ta' xi setgħa taht dan l-artikolu, il-Ministru jista' jitlob għall-assistenza tal-Pulizija.

(3) Id-diretturi u *l-managers*, ikun x'ikun it-titlu li jkollhom, jew kull persuna oħra li tkun jew li kienet responsabbli għall-operazzjonijiet jew l-attivitajiet li jinkwadraw taht il-funzjonijiet ta' sorveljanza jew dawk regolatorji tal-Ministru, għandhom jassistu u jikkollaboraw mal-Ministru sabiex huwa jkun jista' jaqdi l-funzjonijiet tiegħu, u għandhom jiġbru u jibagħtu bla ebda dewmien dik l-informazzjoni u dawk id-dokumenti li l-Ministru jista' raġonevolment jitlob minn żmien għal żmien.

(4) Kull min ifixkel, jimpedixxi jew jattakka lil xi persuna debitament awtorizzata mill-Ministru biex taġixxi f'ismu fl-eżerċizzju ta' xi setgħa taht dan l-Att, jew jonqos jew jirrifjuta milli jhares xi htieġa taht dan l-Att ikun hati ta' reat kontra dan l-Att u jista', meta jinsab hati, jehel multa ta' mhux iżjed minn hamest elef lira jew priġunerija għal perjodu ta' mhux iżjed minn tliet xhur, jew dik il-multa u priġunerija flimkien.”.

7. Il-proviso mas-subartikolu (1) ta' l-artikolu 11 ta' l-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Emenda ta' l-artikolu 11 ta' l-Att prinċipali.

“Izda l-Ministru jista', minkejja id-disposizzjonijiet ta' dan is-subartikolu, johroġ liċenzja jew numru ta' liċenzji provizorji li l-perjodu tagħhom flimkien ma jistax jeċċedi d-disa' xhur, ma' l-ewwel reġistrazzjoni ta' bastiment taht il-bandiera Maltija, f'dawk iċ-ċirkostanzi u taht dawk il-kondizzjonijiet li jista' jqis li jkunu xierqa.”.

Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

8. L-artikolu 19 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fil-paragrafu (a) tiegħu minflok il-kliem “protett jew kontrollat;” għandhom jidhlu dawn l-kliem “protett jew kontrollat, u fil-każ ta' apparat li jkun ġie elevat skond l-artikolu 3 ta' dan l-Att, il-mod kif dan isir minnu u, jew kif isir il-hżin ta' apparat bhal dak;”;

(b) il-paragrafi (ċ) u (d) tiegħu għandhom jiġu enumerati mill-ġdid bhala l-paragrafi (e) u (f) rispettivament;

(ċ) minnufih qabel il-paragrafu (d) tiegħu kif enumerat mill-ġdid, għandhom jiżdiedu dawn il-paragrafi ġodda li ġejjin:

“(ċ) l-imposizzjoni ta' penali amministrattivi fuq kull persuna li taġixxi b'kontravvenzjoni ta' dan l-Att iżda dawk il-penali m'għandhomx ikunu ta' iżjed minn għaxart elef lira għal kull kontravvenzjoni u, jew mitejn lira għal kull ġurnata li matulha tibqa' għaddejja dik il-kontravvenzjoni;

Izda:

(i) il-proċedura għall-imposizzjoni ta' dawk il-penali amministrattivi għandha tkun tippermetti li jkun rispettata id-dritt ta' smiġh qabel ma jiġu imposti dawk il-penali;

(ii) il-proċedura għall-imposizzjoni u l-kontestazzjoni ta' dawk il-penali għandha tkun dik stabbilita għar-rigward ta' penali imposti mill-Awtorità ta' Malta dwar il-Kommunikazzjoni taht Taqsima VII u Taqsima VIII ta' l-Att għat Twaqqif ta' Awtorità ta' Malta dwar il-Kommunikazzjoni, u d-disposizzjonijiet rilevanti ta' dak l-Att u tar-regolamenti kollha magħmulin tahtu għar-rigward ta' kull proċedura bhal dik għandhom japplikaw *mutatis mutandis* għal penali amministrattivi imposti mill-Ministru taht dan l-Att b'tali mod li kull referenza għall-Awtorità ta' Malta dwar il-

Kommunikazzjoni ghandha tiftiehem bhala referenza ghall-Ministru;

(iii) fil-każijiet kollha fejn il-Ministru jimponi multa amministrattiva ghar-rigward ta' kull ma sar jew naqas milli jsir minn xi persuna u dak l-att jew dik l-ommissjoni jkunu wkoll jikkostitwixxu reat kriminali, ma jistghu jinbdew jew jitkomplew ebda proceduri kontra dik il-persuna ghar-rigward ta' dak ir-reat kriminali;

(d) kull dritt u, jew hlas, ikunu kif ikunu dawn deskritti, li jistghu jithallsu fir-rigward ta' xi haġa li tkun regolata b'dan l-Att.”;

(d) fil-paragrafu (e) tiegħu kif enumerat mill-ġdid, minflok il-kliem “li ghandhom x’jaqsmu ma’ *standards* f’Malta.” ghandhom jidhlu l-kliem “li ghandhom x’jaqsmu ma’ *standards* f’Malta.”; u

(e) wara l-paragrafu (e) tiegħu kif enumerat mill-ġdid, ghandu jizdied dan li ġej:

“Izda l-Ministru jista’, meta jkun qieghed jagħmel regolamenti taht dan l-artikolu li jkolhom x’jaqsmu ma’ *standards*, speċifikazzjonijiet jew affarijiet ta’ xorta għal kollox teknika, jagħmel dawk ir-regolamenti bl-ilsien Inġliż biss.”.

9. L-artikolu 20 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 20 ta’ l-Att prinċipali.

(a) minflok il-kliem “sigurtà pubblika jew htigiet ta’ protezzjoni ċivili.” ghandhom jidhlu il-kliem “sigurtà pubblika jew htigiet ta’ protezzjoni ċivili.”; u

(b) wara l-kliem “sigurtà pubblika jew htigiet ta’ protezzjoni ċivili.” ghandu jizdied dan il-proviso li ġej:

“Izda il-Prim Ministru jista’ meta jkun qed jagħmel ordni taht dan l-artikolu, jimponi dawk il-kundizzjonijiet li jista’ jqis li jkunu adatti. Meta jkun qieghed jimponi kundizzjonijiet bħal dawk il-Prim Ministru ghandu jikkonsulta lill-Awtorità ta’ Malta dwar il-Komunikazzjoni.”.

10. Id-disposizzjonijiet ta’ l-Att dwar ir-Radjokomunikazzjoni kif fis-sehh qabel il-bidu fis-sehh ta’ l-Att ta’ l-2007 li Jemenda diversi

Disposizzjoni transitorja.

Ligijiet dwar il-Komunikazzjoni, ghandhom jibqghu japplikaw ghar-rigward ta' kull ma sar jew naqas milli jsir minn xi persuna qabel dak il-bidu fis-sehh tat-Taqsima I ta' dak l-Att.

Taqsima II

Emenda ta' l-Att dwar is-Servizzi Postali

Emenda ta' l-Att
dwar is-Servizzi
Postali.
Kap. 254.

11. (1) Din it-Taqsima temenda l-Att dwar is-Servizzi Postali, u ghandha tinqara u tiftiehem haġa wahda ma' l-Att dwar is-Servizzi Postali, hawn iżjed 'il quddiem f'din it-Taqsima imsejjah "l-Att prinċipali".

(2) Din it-Taqsima ghandha tibda ssehh f'dik id-data li l-Ministru responsabbli għall-komunikazzjoni jista' jappunta b'avviz fil-Gazzetta u jistgħu jiġu hekk appuntati dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

Emenda ta' l-
artikolu 2 ta' l-Att
prinċipali.

12. L-artikolu 2 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) minnufih qabel it-tifsira "Awtorità" ghandha tiżdied din it-tifsira ġdida li ġejja:

“dan l-Att” tinkludi r-regolamenti kollha magħmulin taht dan l-Att kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra;”.

(b) minnufih qabel it-tifsira "distribuzzjoni" ghandha tiżdied din it-tifsira ġdida li ġejja:

“deċiżjoni” tinkludi kull determinazzjoni, direzzjoni, mizura, htieġa jew speċifikazzjoni, tkun kif tkun deskritta, li ssir mill-Awtorità”;

(ċ) fit-tifsira "oġġett postali", minflok il-kliem "perjodiċi u pakki postali" ghandhom jidhlu il-kliem "perjodiċi u *parcels* postali, ikunu kif ikunu dawn deskritti, inklużi pakki;”.

Sostituzzjoni
ġenerali fl-Att
prinċipali.

13. Minflok il-kliem "pakk" u "pakki" kull fejn dawn jinsabu fl-Att prinċipali ghandhom jidhlu l-kliem "*parcel*" u "*parcels*" rispettivament.

Emenda ta' l-
artikolu 24 ta' l-Att
prinċipali.

14. Minnufih wara s-subartikolu (2) ta' l-artikolu 24 ta' l-Att prinċipali, ghandu jizdied dan is-subartikolu ġdid li ġej:

“(3) L-Awtorità tista’, meta tkun qeghda tistabbilixxi *standards* ta’ kwalità ta’ servizz taht dan l-artikolu, tadotta dawk il-mizuri li hija tqis li jkunu adatti ghar-rigward ta’ nuqqas ta’ konformità ma’ tali *standards* mill-provditur ta’ servizz universali. Dawk il-mizuri jistghu jkunu jinkludu li l-provditur ta’ servizz universali jenhtieg ihallas dawk il-penali amministrattivi li l-Awtorità tista’ tistabbilixxi skond id-disposizzjonijiet ta’ dan l-Att.”.

15. Fis-subartikolu (5) ta’ l-artikolu 62 ta’ l-Att prinċipali minflok il-kliem “kull min jikser jew jonqos milli jhares xi disposizzjoni ta’ dan l-Att jew ta’ regolamenti maghmulin jew direttivi moghtijin tahtu” ghandhom jidhlu l-kliem “kull min jikser jew jonqos milli jhares xi disposizzjoni ta’ dan l-Att”.

Emenda ta’ l-artikolu 62 ta’ l-Att prinċipali.

16. Minnufih wara l-artikolu 76 ta’ l-Att prinċipali ghandu jizjed dan l-artikolu ġdid li ġej:

Żieda ta’ l-artikolu 76A ġdid ma’ l-Att prinċipali.

“Hruġ ta’ direttivi u multi amministrattivi. Kap. 418.

76A. (1) L-Awtorità tista’ skond id-disposizzjonijiet ta’ l-artikolu 4(6) u (7) ta’ l-Att ghat Twaqqif ta’ Awtorità ta’ Malta dwar il-Kommunikazzjoni, tohroġ dawk id-direttivi li l-Awtorità tqis li jkunu mehtieg ghall-finijiet ta’ dan l-Att u skond id-disposizzjonijiet tiegħu.

(2) Kull operatur postali li jonqos milli jikkonforma ruhu ma’ xi direttiva jew deċiżjoni, ikunu kif ikunu dawn deskritti, mahruġa mill-Awtorità, tkun tista’ tiġi imposta fuqu mill-Awtorità multa amministrattiva ta’ mhux iżjed minn ammont ta’ ghaxart elef lira u, jew mitejn lira għal kull ġurnata li matulha ma jiġux osservati l-htigiet ta’ xi deċiżjoni jew direttiva bhal dik sa kemm tibqa’ tippersisti in-nuqqas ta’ konformita.”.

17. Fil-proviso ma’ l-artikolu 81(2)(k) ta’ l-Att prinċipali, minflok il-kliem “l-ammont ta’ hamest elef lira għal kull reat” ghandhom jidhlu l-kliem “l-ammont ta’ ghaxart elef lira għal kull reat”.

Emenda ta’ l-artikolu 81 ta’ l-Att prinċipali.

18. Id-disposizzjonijiet ta’ l-Att dwar is-Servizzi Postali, kif fis-sehh qabel il-bidu fis-sehh ta’ l-Att ta’ l-2007 li Jemenda diversi Ligijiet dwar il-Komunikazzjoni, ghandhom jibqgħu japplikaw ghar-rigward ta’ kull ma sar jew naqas milli jsir minn xi persuna qabel dak il-bidu fis-sehh tat-Taqsima II ta’ dak l-Att.

Disposizzjoni transitorja.

Taqsimta III

Emenda ta' l-Att
dwar ix-Xandir.
Kap. 350.

19. (1) Din it-Taqsimta temenda l-Att dwar ix-Xandir, u ghandha tinqara u tinftiehem haġa waħda ma' l-Att dwar ix-Xandir, hawn iżjed 'il quddiem f'din it-Taqsimta imsejjah "l-Att prinċipali".

(2) Din it-Taqsimta ghandha tibda ssehħ f'dik id-data li l-Prim Ministru jista' jistabbilixxi b'avviż fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

Emenda ta' l-
artikolu 16B
ta' l-Att prinċipali.

20. L-artikolu 16B ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) fin-nota marginali li hemm ma' l-artikolu, minflok il-kliem "Radju diġitali." għandhom jidhlu l-kliem "Regolamentazzjoni ta' xandir fuq *networks*.";

(b) fis-subartikolu (1), minflok il-kliem "is-servizzi tar-radju diġitali" għandhom jidhlu l-kliem "in-*networks*";

(ċ) is-subartikolu (2) għandu jiġi emendat kif ġej:

(i) minflok il-kliem "liċenza ta' radju diġitali tax-xandir" kull fejn jinsabu fis-subartikolu għandhom jidhlu l-kliem "liċenza ta' servizz ta' xandir fuq *network*", u fl-aħħar paragrafu tas-subartikolu minflok il-kliem "servizz ta' radju diġitali" għandhom jidhlu l-kliem "servizzi ta' xandir fuq *network*";

(ii) minflok il-kliem "liċenza diġitali tax-xandir" fil-paragrafu (ċ) tiegħu għandhom jidhlu l-kliem "liċenza ta' servizz ta' xandir fuq *network*";

(iii) minflok il-kliem "liċenzi ta' radju diġitali tax-xandir" fil-paragrafu (j) tiegħu għandhom jidhlu l-kliem "liċenzi ta' servizz ta' xandir fuq *network*";

(d) minnufih wara s-subartikolu (2) tiegħu għandu jidhol dan is-subartikolu ġdid li ġej:

"(3) Għall-fini ta' dan l-artikolu, "*network*" tfisser kull *network* ta' komunikazzjonijiet elettronici u kull servizz ta' komunikazzjonijiet elettronici kif imfisser fl-artikolu 2 ta' l-Att biex jirregola Komunikazzjonijiet Elettronici."

Kap. 399.

Taqsimha IV

Emenda ta' l-Att biex jirregola Komunikazzjonijiet Elettronici

- 21.** (1) Din it-Taqsimha temenda l-Att biex jirregola Komunikazzjonijiet Elettronici, u ghandha tinqara u tiftiehem haġa wahda ma' l-Att biex jirregola Komunikazzjonijiet Elettronici, hawn iżjed 'il quddiem f'din it-Taqsimha imsejjah "l-Att prinċipali".
- Emenda ta' l-Att biex jirregola Komunikazzjonijiet Elettronici. Kap. 399.
- (2) Din it-Taqsimha ghandha tibda ssehh f'dik id-data li l-Ministru responsabbli għall-komunikazzjoni jista' jappunta b'avviz fil-Gazzetta u jistgħu jiġu hekk appuntati dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.
- 22.** Is-subartikolu (2) ta' l-artikolu 6 ta' l-Att prinċipali għandu jithassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu shih.
- Emenda ta' l-artikolu 6 ta' l-Att prinċipali.
- 23.** Is-subartikolu (2) ta' l-artikolu 7 ta' l-Att prinċipali għandu jithassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu shih.
- Emenda ta' l-artikolu 7 ta' l-Att prinċipali.
- 24.** Is-subartikolu (2) ta' l-artikolu 8 ta' l-Att prinċipali għandu jithassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu shih.
- Emenda ta' l-artikolu 8 ta' l-Att prinċipali.
- 25.** Is-subartikolu (8) ta' l-artikolu 11 ta' l-Att prinċipali għandu jithassar.
- Emenda ta' l-artikolu 11 ta' l-Att prinċipali.
- 26.** Is-subartikolu (7) ta' l-artikolu 14 ta' l-Att prinċipali għandu jithassar.
- Emenda ta' l-artikolu 14 ta' l-Att prinċipali.
- 27.** Is-subartikolu (2) ta' l-artikolu 15 ta' l-Att prinċipali għandu jithassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu shih.
- Emenda ta' l-artikolu 15 ta' l-Att prinċipali.
- 28.** Is-subartikolu (2) ta' l-artikolu 16 ta' l-Att prinċipali għandu jithassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu shih.
- Emenda ta' l-artikolu 16 ta' l-Att prinċipali.
- 29.** Is-subartikolu (5) ta' l-artikolu 19 ta' l-Att prinċipali għandu jithassar, u s-subartikolu (6) tiegħu għandu jiġi enumerat mill-ġdid bhala s-subartikolu (5).
- Emenda ta' l-artikolu 19 ta' l-Att prinċipali.

Emenda ta' l-artikolu 21 ta' l-Att prinċipali.

30. Is-subartikolu (2) ta' l-artikolu 21 ta' l-Att prinċipali għandu jithassar, u s-subartikolu (1) tiegħu għandu jiġi enumerat mill-ġdid bhala l-artikolu shih.

Thassir ta' l-artikoli 24 sa 26 ta' l-Att prinċipali.

31. L-artikoli 24 sa 26 ta' l-Att prinċipali għandhom jithassru.

Emenda ta' l-artikolu 34 ta' l-Att prinċipali.

32. Fil-paragrafu (k) tas-subartikolu (1) ta' l-artikolu 34 ta' l-Att prinċipali, il-kliem “jordnaw x’ mizuri għandhom jittiehdu minn xi persuna” għandhom jiġu sostitwiti bil-kliem “jipprovdu għal obbligi dwar iż-żamma ta’ *data*, u għar-regoli dwar l-aċċess mill-Awtorità u mill-Pulizija għal *data* li tinżamm minn impriži, u jordnaw x’ mizuri għandhom jittiehdu minn kull persuna.”.

Żjieda ta' l-artikolu 35A ġdid ma' l-Att prinċipali.

33. Minnufih wara l-artikolu 35 ta' l-Att prinċipali għandu jizjed l-artikolu ġdid li ġej:

“Użu ta’ apparat ta’ komunikazzjoni elettronika biex isir theddid.

35A. Kull min permezz ta’ xi *network* jew apparat ta’ komunikazzjoni elettronika:

(a) jhedded li jagħmel xi reat; jew

(b) bil-hsieb li jiehu xi flus jew xi haga ohra, jew biex jagħmel xi gwadann, jew bil-hsieb li jġieghel lil haddiehor biex jagħmel jew jonqos milli jagħmel xi haga, jhedded li jakkuża jew li jagħmel ilment kontra, jew biex jimmalafama lil dik il-persuna jew xi persuna ohra; jew

(ċ) jagħmel użu iehor mhux xieraq bih, ikun hati ta’ reat taht dan l-Att u jista’, meta jinsab hati, jehel multa ta’ mhux iżjed minn għaxart elef lira u, fil-każ ta’ reat permanenti, multa ohra ta’ mhux iżjed minn mitejn lira għal kull jum li matulu jkompli r-reat.”.

Emenda ta' l-artikolu 37 ta' l-Att prinċipali.

34. Fis-subartikolu (1) ta' l-artikolu 37 ta' l-Att prinċipali, il-kliem “taht l-artikolu 27 jew taht l-artikolu 35(1)(d)” għandhom jiġu sostitwiti bil-kliem “taht l-artikolu 27, taht l-artikolu 35(1)(d) jew taht l-artikolu 35A.”.

Emenda ta' l-artikolu 43 ta' l-Att prinċipali.

35. Fis-subartikolu (2) ta' l-artikolu 43 ta' l-Att prinċipali, minflok il-kliem “jeżenta mid-disposizzjonijiet ta’ dan l-Att” għandhom jidhlu il-kliem “jeżenta minn kull disposizzjoni ta’ dan l-Att u mid-disposizzjonijiet tar-regolamenti kollha magħmulin tahtu”.

Disposizzjoni transitorja.

36. Id-disposizzjonijiet ta' l-Att biex jirregola Komunikazzjonijiet Elettronici kif fis-sehh qabel il-bidu fis-sehh ta' l-Att ta' l-

2007 li Jemenda diversi Liġijiet dwar il-Komunikazzjoni, għandhom jibqgħu japplikaw għar-rigward ta' kull ma sar jew naqas milli jsir minn xi persuna qabel dak il-bidu fis-seħh tat-Taqsima III ta' dak l-Att.

Taqsim V

Emenda ta' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni

37. (1) Din it-Taqsima temenda l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, u għandha tinqara u tiftiehem haġa waħda ma' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni, hawn iżjed 'il quddiem f'din it-Taqsima imsejjah "l-Att prinċipali".

Emenda ta' l-Att għat-Twaqqif ta' Awtorità ta' Malta dwar il-Komunikazzjoni. Kap. 418.

(2) Din it-Taqsima għandha tibda sseħh f'dik id-data li l-Ministru responsabbli għall-komunikazzjoni jista' jappunta b'avviz fil-Gazzetta u jistgħu jiġu hekk appuntati dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

38. L-artikolu 2 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 2 ta' l-Att prinċipali.

(a) minnufih wara t-tifsira "Awtorità" għandha tiżdied din it-tifsira ġdida li ġejja:

“awtorizzazzjoni” tfisser kull awtorizzazzjoni inkluża kull awtorizzazzjoni ġenerali, liċenza, dritt ta' użu jew permess, ikun kif ikun deskritt, li persuna jista' jkollha jew tinghata taht kull liġi li l-Awtorità għandha l-jedd li tinforza jew tamministra;”;

(b) minnufih wara t-tifsira "komunikazzjoni" għandha tiżdied din it-tifsira li ġejja:

“Komunità” tfisser il-Komunità Ewropea;” u

(ċ) minnufih wara t-tifsira "uffiċjal pubbliku" għandha tiżdied din it-tifsira ġdida li ġejja:

“utent” tinkludi lil kull persuna li tuża jew titlob li tinghata xi servizz ta' komunikazzjoni.”.

39. Fis-subartikolu (9) ta' l-artikolu 4 ta' l-Att prinċipali, il-kliem “għall-applikazzjoni tad-disposizzjonijiet ta' dan l-Att” għandhom jidhlu il-kliem “għall-applikazzjoni tad-disposizzjonijiet ta' dan l-Att, u ta' ”

Emenda ta' l-artikolu 4 ta' l-Att prinċipali.

kull liġi oħra li tirrigwarda materji ta' kompetizzjoni u, jew affarijiet li jirrigwardaw lill-konsumatur,”.

Emenda ta' l-artikolu 5 ta' l-Att prinċipali.

40. Minnufih wara s-subartikolu (9) ta' l-artikolu 5 ta' l-Att prinċipali għandu jiżdied dan is-subartikolu ġdid li ġej:

“(10) Ebda haġa f'dan l-Att m'għandha tiftiehem bħala li tirrizulta jew li qatt irrizultat fin-nullità jew fl-invalidità ta' xi deċiżjoni jew direttiva magħmula mill-Awtorità f'xi żmien li matulu xi wiehed jew aktar mid-Direttorati ma kienx imwaqqaf.”.

Emenda ta' l-artikolu 29 ta' l-Att prinċipali.

41. Is-subartikolu (1) ta' l-artikolu 29 ta' l-Att prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafi (ċ), (d) u (e) tiegħu għandhom jiġu enumerati mill-ġdid bħala l-paragrafi (d), (e) u (f);

(b) minufih qabel il-paragrafu (d) tiegħu kif enumerat mill-ġdid għandu jiżdied dan il-paragrafu ġdid li ġej:

“(ċ) tneħhi u żżomm dawk il-kotba, dokumenti jew *records* għal dak il-perjodu skond ma jista' jkun raġonevoli għal aktar eżamijiet;”; u

(ċ) fil-paragrafu (f) kif enumerat mill-ġdid, minflok il-kliem “tagħmel dawk l-ispezzjonijiet,” għandhom jidhlu il-kliem “tagħmel dawk l-ispezzjonijiet inklużi ispezzjonijiet li jsiru fuq il-post sabiex l-Awtorità tkun tista' taqdi l-funzjonijiet tagħha skond il-liġi u meta tkun qegħda hekk taġixxi l-Awtorità tista' wkoll tagħmel”.

Sostituzzjoni ta' l-artikoli 31 sa 33 ta' l-Att prinċipali.

42. Minflok l-artikoli 31 sa 33 ta' l-Att prinċipali għandhom jidhlu dawn l-artikoli li ġejjin:

“Sanzjonijiet oħra li l-Awtorità tista' timponi.

31. (1) Mingħajr preġudizzju għal kull disposizzjoni oħra taht dan l-Att jew kull liġi oħra li l-Awtorità għandha l-jedd li tinforza, l-Awtorità tista' tiehu dawn il-miżuri li ġejjin għar-rigward ta' kull persuna li tikser xi disposizzjoni ta' dan l-Att jew ta' kull liġi oħra li l-Awtorità għandha l-jedd li tinforza, jew li tonqos milli thares xi direttiva jew deċiżjoni mogħtija mill-Awtorità:

(a) timponi multa amministrattiva skond id-disposizzjonijiet ta' dan l-artikolu u l-artikoli 32 u 33; u

(b) f'dawk il-każijiet fejn l-Awtorità tqis li l-persuna tkun kisret b'mod ripetut u serju xi disposizzjonijiet ta' dan l-Att jew ta' xi liġi oħra li l-Awtorità għandha l-jedd li tinforza, jew xi deċiżjonijiet jew direttivi ta' l-Awtorità, l-Awtorità tista' tirtira jew tissospendi d-dritt li tipprovi servizzi jew *networks* regolati b'dan l-Att jew tahtu jew kull liġi oħra li l-Awtorità għandha l-jedd li tinforza.

(2) Fil-każijiet kollha fejn l-Awtorità timponi multa amministrattiva għar-rigward ta' xi haġa li tkun saret jew li naqset milli ssir minn xi persuna u dak l-att jew dik l-ommissjoni jkunu wkoll jikkostitwixxu reat kriminali, ma jistgħu jittiehdu jew jitkomplew ebda proċeduri kontra dik il-persuna għar-rigward ta' dak ir-reat kriminali.

Proċedura
meta tkun
qeghda
tittiehed
mizura taht l-
artikolu 31.

32. (1) l-Awtorità għandha qabel ma tghaddi biex tiehu xi wahda mill-mizuri taht l-artikolu 31 tikteb lill-persuna in kwistjoni, fejn tgharrfu bil-mizura li tista' tittiehed u r-raġuni speċifika għaliex din tista' tittiehed, fejn huwa jinhtieg isewwi l-atti jew l-ommissjonijiet tieghu u, jew li jagħmel is-sottomissjonijiet tieghu lill-Awtorità:

Kap. 399.

(a) fi żmien dak il-perjodu li ma jkunx wiehed inqas minn tletin ġurnata f'każ ta' xi ksur ta' l-Att biex jirregola Komunikazzjonijiet Elettronici jew ta' xi regolamenti magħmulin tahtu;

(b) fi żmien dak il-perjodu li ma jkunx inqas minn hmistax il-ġurnata fir-rigward ta' kull ksur ieħor li għalih ma japplikax il-paragrafu (a), u dak il-perjodu, bla hsara għad-dispożizzjonijiet tas-subartikolu (4) ta' dan l-artikolu, jista' jitqassar jekk il-kontinwazzjoni tal-ksur ikollu impatt negattiv fuq il-qadi effettiv mill-Awtorità tal-funzjonijiet regolatorji tagħha:

Iżda meta l-mizura tkun multa amministrattiva, il-persuna involuta għandha wkoll tiġi mgħarrfa bl-ammont tal-multa:

Iżda wkoll meta tkun qeghda tohroġ avviz taht dan is-subartikolu, l-Awtorità tista' timponi kundizzjonijiet bħal dawk li hija tista' tqis li jkunu raġonevoli fiċ-ċirkostanzi.

(2) Jekk il-persuna involuta tirrimedja l-kontravvenzjoni fil-perjodu stabbilit mill-Awtorità skond is-

subartikolu (1), u taqbel bil-miktub li timxi mal-kundizzjonijiet li l-Awtorità tista' timponi, l-Awtorità għandha tiegħaf milli tkompli tmexxi aktar kontriha.

(3) Jekk wara li jiskadi l-perjodu msemmi fil-paragrafi (a) u (b) tas-subartikolu (1) l-Awtorità tqis li l-persuna involuta ma tkun tat ebda raġuni valida biex turi għaliex ebda miżura m'għandha tittiehed kontrih, l-Awtorità għandha tagħti avviż bil-miktub lill-persuna involuta fejn tispeċifika n-natura tal-kontravvenzjoni, tiddikjara xi tkun il-miżura li tkun qegħda tittiehed, u jekk il-miżura tkunx multa amministrattiva, fejn jiġi dikjarat l-ammont tal-multa li tkun qegħda tiġi imposta.

(4) Minkejja d-disposizzjonijiet tas-subartikolu (1), meta l-Awtorità jkollha prova *prima facie* li l-kontravvenzjoni -

(a) tkun tirrappreżenta theddida immedjata u gravi għas-sigurtà pubblika, is-sikurezza pubblika jew is-saħħa pubblika; jew

(b) tohloq jew tista' tohloq problemi ekonomiċi jew operattivi gravi għal provdaturi oħra ta' servizzi ta' komunikazzjoni jew *networks*, jew għall-konsumaturi,

l-Awtorità tista' tiegħu miżuri temporanji biex tirrimedja s-sitwazzjoni qabel ma tasal għal deċiżjoni finali inkluża l-imposizzjoni ta' multi amministrattivi, u, jew tista' tqassar il-perjodu ta' tletin ġurnata msemmi fil-paragrafi (a) u (b) tas-subartikolu (1):

Izda l-persuna li kontriha daww il-miżuri jkunu kontemplati, għandha tingħata opportunità raġonevoli tiddikjara x'inhil l-fehma tagħha u tipproponi kull rimedju possibbli.

(5) L-avviż imsemmi fis-subartikolu (3), wara li jgħaddi t-terminu għall-appell minnu, għandu, meta tiġi notifikata kopja tiegħu permezz ta' att ġudizzjarju lill-persuna indikata fl-avviż, tikkostitwixxi titolu eżekuttiv għal kull effett u għan tat-*Titolu VII* tat-*Taqsim I* tat-*Tieni Ktieb* tal-*Kodiċi ta' Organizzazzjoni u Proċedura Ċivili*:

Izda jekk il-persuna li kontriha jinhareġ l-avviż, tippreżenta appell quddiem il-Bord ta' l-Appelli matul il-

perjodu ta' tletin ġurnata imsemmija taht l-artikolu 38, u flimkien ma' jew qabel ma tippreżenta l-appell tagħha, titlob lill-Bord ta' l-Appelli jissospendi l-effetti ta' l-avviż, allura l-Awtorità għandha tieqaf milli tohroġ l-att ġudizzjarju imsemmi f'dan is-subartikolu sa dak iż-żmien li t-talba għas-sospensjoni tkun ġiet deċiża, irtirata jew xort'ohra trattata:

Iżda wkoll il-Bord ta' l-Appelli għandu jiddeċiedi kull talba għal sospensjoni msemmija f'dan is-subartikolu kemm jista' jkun malajr. Qabel ma tiġi deċiża xi talba bhal dik, il-Bord ta' l-Appelli għandu jagħti lill-Awtorità opportunità raġonevoli li twieġeb u tagħmel is-sottomissjonijiet tagħha.

(6) Ir-rati ta' mġax bit-tmienja fil-mija fis-sena għandhom jibdew għaddejn mid-data stabbilita mill-Awtorità għall-hlas ta' xi multa amministrattiva imposta minnha skond dan l-Att. F'dawk il-każijiet fejn il-Bord ta' l-Appelli jew il-Qorti ta' l-Appell, skond il-każ, wara li jkunu laqgħu rikors għas-sospensjoni tal-multa sakemm ikunu għadhom għaddejn il-proċeduri, finalment jiddeċidu li l-multa tkun dovuta, dik il-multa għandha tkun dovuta flimkien ma' kull imġax fuq dik il-multa mid-data oriġinarjament stabbilita mill-Awtorità għall-hlas, inkluż il-perjodu li matulu l-hlas ta' dik il-multa kien sospiż.

(7) L-Awtorità għandha tagħti r-raġunijiet tagħha għal kull deċiżjoni li hija tiegħu taht dan l-artikolu.

(8) Minkejja id-disposizzjonijiet ta' kull liġi oħra, ebda mandat kawtelatorju jew ordni m'għandhom jiġu mahruġa minn xi qorti biex iżommu lill-Awtorità mill-eżerizzju ta' xi waħda mis-setgħat mogħtija lilha taht dan l-artikolu.

L-ammont tal-multa amministrattiva.

33. (1) Meta tiġi imposta multa amministrattiva din m'għandhiex, kemm-il darba ma jiġix provdut xort'ohra b'dan l-Att jew tahtu, teċċedi mija u hamsin elf lira għal kull kontravvenzjoni jew nuqqas ta' konformità jew hamest elef lira għal kull ġurnata ta' kontravvenzjoni jew nuqqas ta' konformità skond il-każ:

Iżda jekk l-att jew l-ommissjoni li jkunu jikkostitwixxu kontravvenzjoni isiru minn xi impriża u l-Awtorità tqis li dak l-att jew dik l-ommissjoni jkollhom effetti li jkunu speċjalment sinifikattivi fis-suq b'detriment għall-kompetituri u, jew il-konsumaturi, l-ammont imsemmi li jista' jiġi impost bhala

multa amministrattiva jista' jiġi miżjud għal dak l-ammont li ma jkunx ta' iżjed minn hamsa fil-mija tad-dhul totali ta' l-impriża fis-sena kalendarja li taħbat minnufih qabel is-sena meta tkun saret il-kontravvenzjoni.

(2) Meta jiġi stabbilit l-ammont ta' multa amministrattiva, għandha b'mod partikolari titqies in-natura u d-daqs tal-kontravvenzjoni, għal kemm din iddum u l-impatt tagħha fuq is-suq u l-konsumaturi.

(3) Il-Ministru jista' permezz ta' regolamenti magħmulin taħt dan l-Att jistabbilixxi l-penali amministrattivi li jistgħu jiġu imposti mill-Awtorità għal kull ksur ta' dawk ir-regolamenti:

Iżda l-ammont tal-multi li jistgħu jiġu hekk stabbiliti m'għandux ikun ta' iżjed mill-oghla ammonti msemmija taħt is-subartikolu (1).”.

Żjieda ta' l-artikolu 34A ġdid ma' l-Att prinċipali.

43. Minnufih wara l-artikolu 34 ta' l-Att prinċipali għandu jizjed dan l-artikolu ġdid li ġej:

“Limitazzjoni fuq il-provdiment ta' servizzi, *networks* li jipproteġu s-sigurtà pubblika.

34A. (1) Għall-finijiet ta' dan l-artikolu:

(a) “awtorizzazzjoni” tfisser kull awtorizzazzjoni, tkun kif tkun deskritta, li persuna jista' jkollha jew li tista' tinghata taħt l-Att;

(b) “azzjonist” tfisser:

(i) fil-każ ta' kumpannija li ma tkunx elenkata fil-Borża ta' Malta jew fuq il-Borża ta' xi Stat Membru ta' l-Unjoni Ewropea, persuna li jkollha xi ammont ta' ishma f'kumpannija;

(ii) fil-każ ta' kumpannija elenkata fil-Borża ta' Malta jew fuq il-Borża ta' xi Stat Membru ta' l-Unjoni Ewropea, persuna li jkollha iżjed minn tnejn fil-mija ta' l-ishma f'kumpannija.

(2) Meta l-Awtorità tkun sodisfatta li:

(a) persuna li jkollha xi awtorizzazzjoni; jew

(b) persuna li tkun segretarju, direttur jew uffiċjal prinċipali ieħor ta' kumpannija, soċjetà jew xi korp ieħor li jkollu awtorizzazzjoni jew li xort'ohra jkun jeżerċita

kontroll jew influwenza sinifikanti fuq dik il-kumpannija, soċjetà jew korp iehor; jew

(ċ) persuna li tkun azzjonista ta' kumpannija, soċjetà jew xi korp iehor li jkollu awtorizzazzjoni,

ma tkunx persuna idonea u adatta biex ikollha xi awtorizzazzjoni jew biex taġixxi f'xi posizzjoni minn dawk imsemmija fil-paragrafi (b) jew (ċ) hawn qabel u l-fatt li dik il-persuna jkollha xi awtorizzazzjoni jew posizzjoni jista' raġonevolment ikun ta' theddida għall-fiduċja pubblika, għas-sigurtà pubblika jew għall-ordni pubbliku, l-Awtorità tista' tipprobjixxi lil dik il-persuna jew lil xi kumpannija, soċjetà jew korp iehor li fihom dik il-persuna jkollha xi posizzjoni bħal dik milli jkollha awtorizzazzjoni.

(3) L-Awtorità tista', għall-fini li taċċerta ruħha jekk persuna msemmija fis-subartikolu (2) ta' dan l-artikolu tkunx persuna idonea u adatta li jkollha awtorizzazzjoni jew biex taġixxi f'xi posizzjoni msemmija fil-paragrafi (b) jew (ċ) tas-subartikolu (2) ta' dan l-artikolu, tehtieg, f'dak it-terminu li tista' tqis li jkun raġonevoli fiċ-ċirkostanzi, dik l-informazzjoni u, jew kunsens biex tikseb informazzjoni li l-Awtorità tista' tqis li tkun adatta minghand persuna bħal dik jew minghand kull persuna li tkun bi hsiebha ttipprovdi servizz ta' komunikazzjoni u, jew *network* skond l-Att.

(4) Minghajr preġudizzju għad-disposizzjonijiet l-oħra ta' dan l-artikolu:

(a) kull min jinstab hati, sew f'Malta sew barra minn Malta, ta' delitt kontra l-fiduċja pubblika m'għandux jitqies li jkun persuna idonea u adatta li jkollha awtorizzazzjoni jew biex taġixxi f'xi posizzjoni minn dawk imsemmija fil-paragrafi (b) jew (ċ) tas-subartikolu (2) ta' dan l-artikolu;

(b) kull awtorizzazzjoni li jkollha xi persuna li tinsab hatja ta' delitt kontra l-fiduċja pubblika, jew li jkollha xi kumpannija, soċjetà jew korp iehor li jkollha xi azzjonist jew segretarju, direttur jew xi uffiċjal prinċipal iehor li jkun instab hati, sew f'Malta sew barra minn Malta, ta' delitt kontra l-fiduċja pubblika, jew li fuqha, persuna li tkun instabet hatja, sew f'Malta sew barra minn Malta, ta' delitt kontra l-fiduċja pubblika xort'oħra tkun teżerċita kontroll jew influwenza

sinifikanti, m'ghandu jkollha ebda effett meta jkun hemm deċiżjoni ta' l-Awtorità li tittiehed wara li jkunu ġew ikkunsidrati l-fatti rilevanti kollha.”.

Emenda ta' l-artikolu 37 ta' l-Att prinċipali.

44. L-artikolu 37 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) fin-nota marġinali li hemm miegħu ghandhom jiżdedu l-kliem “Kap. 426”; u

(b) fis-subartikolu (1) tiegħu, minflok il-kliem “l-Att dwar ix-Xandir jew l-Att dwar is-Servizzi Postali:” ghandhom jidhlu il-kliem “l-Att dwar ix-Xandir, l-Att dwar is-Servizzi Postali jew l-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici:”.

Emenda ta' l-artikolu 38 ta' l-Att prinċipali.

45. L-artikolu 38 ta' l-Att prinċipali ghandu jiġi emendat kif ġej:

(a) minflok is-subartikolu (2) tiegħu ghandu jidhol dan li ġej:

“(2) Persuna li tiġi notifikata b'avviż bil-miktub li jingħata taht is-subartikolu (3) ta' l-artikolu 32, tista' fi żmien tletin ġurnata mid-data ta' dik in-notifika tagħmel appell quddiem il-Bord ta' l-Appelli li fih toġġezzjona għall-multa amministrattiva li tgi hekk stabbilita.”; u

(b) fis-subartikolu (3) tiegħu, minflok il-kliem “kemm-il darba dik il-piena ma tistax skond il-liġi tkun imposta fiċ-ċirkostanzi tal-każ, jew ma tistax skond il-liġi tiġi mwahhla fl-ammont stabbilit mill-Awtorità” ghandhom jidhlu il-kliem “kemm-il darba jirriżultalha li dik il-piena mhux possibbli skond il-liġi tkun imposta fiċ-ċirkostanzi tal-każ, jew mhux possibbli skond il-liġi tiġi mwahhla fl-ammont stabbilit mill-Awtorità”.

Enumerazzjoni mill-ġdid tat-Taqsima IX u żieda tat-Taqsima IX ġdida ma' l-Att prinċipali.

46. (1) It-Taqsima IX ta' l-Att prinċipali ghandha tiġi enumerata mill-ġdid bhala t-Taqsima X u l-artikoli 43 sa 47 ghandhom jiġu enumerati mill-ġdid bhala l-artikoli 45 sa 49 rispettivament.

(2) Minnufih wara t-Taqsima VIII ta' l-Att prinċipali, ghandha tiżded din it-Taqsima IX ġdida li ġejja:-

“TAQSIMA IX

RISOLVIMENT TA' TILWIM

Tilwim bejn persuni li jkollhom awtorizzazzjoni.

43. (1) Mingħajr hsara għal dak li jista' jiġi provdut f'xi liġi oħra, fil-każ ta' tilwima li tqum bejn persuni li jkollhom awtorizzazzjoni

u li jkunu stabbiliti f'Malta f'dak li ghandu x'jaqsam ma' obbligazzjonijiet li l-persuni ghandhom lejn xulxin taht xi ligi li l-Awtorità ghandha l-jedd li tinforza, l-Awtorità ghandha, bla hsara ghas-subartikolu (2) ta' dan l-artikolu, fuq talba ta' xi parti fit-tilwima, tibda investigazzjoni tat-tilwima u, kemm jista' jkun malajr u f'kull każ, hlief f'dawk iċ-ċirkostanzi li l-Awtorità tqis li jkunu eċċezjonali, fi żmien erba' xhur mid-data meta t-tilwima tkun ġiet notifikata lill-parti fit-tilwima, tohroġ bir-rizultanzi tagħha biex tirrisolvi t-tilwima u tiżgura konformità mal-ligi li tkun tapplika:

Iżda ebda haġa f'dan l-artikolu m'ghandha tiftiehem bhala li tirrestringi jew tipprojbixxi lill-Awtorità milli tagħmel b'inizjattiva tagħha stess investigazzjoni ta' xi tilwima li tista' ssir taf biha u li l-Awtorità tkun tal-fehma li ghandha tkun investigata.

(2) L-Awtorità tista' tiddeċiedi li ma tibda ebda investigazzjoni msemija fis-subartikolu (1) meta hija tkun sodisfatta li jkun hemm modi oħra kif tkun tista' tiġi risolta t-tilwima b'mod opportun disponibbli għall-partijiet jew inkella jekk il-proċeduri legali fir-rigward tat-tilwima jkunu nbdew minn xi parti fit-tilwima.

(3) Meta l-Awtorità tiddeċiedi li m'ghandhiex tibda investigazzjoni taht is-subartikolu (2) ta' dan l-artikolu, hija ghandha tinforma lill-partijiet b'dik id-deċiżjoni kemm jista' jkun malajr wara dik id-deċiżjoni.

(4) Jekk ir-risolviment tat-tilwima ma jsehħx sa erba' xhur wara d-data tad-deċiżjoni msemija fis-subartikolu (3) u l-parti li tkun qeghda tftitex li jkollha rimedju ma tkunx bdiet proċeduri legali quddiem il-qrati ordinarji jew quddiem xi forum aġġudikanti kompetenti ieħor, ikun kif ikun dan deskritt, l-Awtorità ghandha, fuq talba ta' xi wahda mill-partijiet fit-tilwima, tibda investigazzjoni u tagħti deċiżjoni skond id-disposizzjonijiet ta' dan l-artikolu.

(5) Meta tkun qeghda tagħti deċiżjoni taht dan l-artikolu, l-Awtorità ghandha fir-rigward ta' tilwimiet bejn persuni li jipprovdu servizzi ta' komunikazzjoni elettronika u, jew *networks*, tikkunsidra l-għanijiet taht l-artikolu 4 ta' l-Att biex jirregola Komunikazzjonijiet Kap. 399. Elettronici.

(6) Mingħajr preġudizzju għad-dispożizzjonijiet ta' l-artikolu 31 ta' dan l-Att, persuna li għaliha tkun tapplika deċiżjoni taht dan l-artikolu ghandha, salv id-disposizzjonijiet ta' l-artikolu 42 ta' dan l-Att, minnufih tikkonforma ruhha mad-deċiżjoni. Jekk dik il-persuna tonqos milli tagħmel dan, hija ghandha titqies li tkun għamlet kontravvenzjoni ta' dan l-artikolu. Il-perjodu ta' nuqqas ta' konformità

ghandu jitqies li jkun beda ghaddej mid-data meta ssir in-notifika tad-deċiżjoni ta' l-Awtorità jew minn kull data ohra skond ma tista' tinghata fid-deċiżjoni u dik id-data ghandha f'kull każ tkun fid-data jew wara d-data tan-notifika tad-deċiżjoni:

Iżda jekk jirriżulta lill-Awtorità li wahda mill-partijiet f'tilwima tkun kisret id-disposizzjonijiet ta' dan l-Att jew ta' xi liġi ohra li l-Awtorità ghandha l-jedd li tinforza, l-Awtorità tkun tista', minkejja d-disposizzjonijiet ta' dan l-artikolu tapplika d-disposizzjonijiet ta' l-artikoli 31 sa 33 ta' dan l-Att.

(7) Meta l-Awtorità tkun qeghda tohroġ deċiżjoni taht dan l-artikolu hija ghandha tiddikjara x'ikunu r-raġunijiet li d-deċiżjoni tkun bażata fuqhom, u ghandha, bla hsara ghal dawk il-htigiet ta' kunfidenzjalità kummerċjali li hija tista' tqis li jkunu adatti, tinnotifika lill-partijiet fit-tilwima b'kopja tad-deċiżjoni.

(8) L-Awtorità ghandha tippubblika avviż ta' deċiżjoni moghtija taht dan l-artikolu u ghandha tindika minn fejn ikunu jistghu jinkisbu kopji tad-deċiżjoni jew informazzjoni dwarha.

(9) Il-proċedura msemmija f'dan l-artikolu m'ghandha tipprekludi lil ebda parti fit-tilwima milli tibda azzjoni quddiem il-qrati jew quddiem xi forum aġġudikanti kompetenti iehor.

(10) Il-Ministru jista' b'regolamenti jibdel il-perjodi dikjarati fis-subartikoli (1) u (4) ta' dan l-artikolu.

Tilwimiet li jnvolv lill-konsimaturi.

44. (1) Meta tqum tilwima, tkun kif tkun deskritta, bejn persuna li jkollha awtorizzazzjoni u xi utent wara li jkun sar ilment minn utent li jallega kontravvenzjoni ta' xi liġi jew deċiżjoni li l-Awtorità ghandha l-jedd li tinforza, kull parti f'dik it-tilwima tista' tirreferi t-tilwima lill-Awtorità:

Iżda meta jkun qieghed jaghmel dak l-ilment l-utent ghandu *prima facie* juri li huwa jkun ġie affettwat mill-att jew mill-ommissjoni tal-persuna li jkollha l-awtorizzazzjoni li jkun ghamel l-ilment dwarha.

(2) Meta ssirilha referenza bhal dik hawn qabel imsemmija, jew meta xort'ohra ssir taf b'xi tilwima bhal dik li l-Awtorità tkun tal-fehma li ghandha tiġi investigata, l-Awtorità ghandha tinnotifika lill-partijiet kollha fit-tilwima li l-kwistjoni tkun qeghda tiġi investigata. Meta tkun qeghda taghmel dan l-Awtorità ghandha tirregola l-proċedura taghha, u dik il-proċedura ghandha, sakemm ikun raġonevolment possibbli, tkun trasparenti, sempliċi, mhux kostuża u li twassal ghal risolviment mgħaġġel u ġust tal-tilwima, u ghandha taghti lill-partijiet

kollha fit-tilwima opportunità raġonevoli biex ikunu jistgħu jippreżentaw is-sottomissjonijiet tagħhom u jġibu kull informazzjoni rilevanti:

Iżda l-Awtorità tista' tiddeċiedi li ma tibdiex investigazzjoni skond dan l-artikolu meta hija tkun sodisfatta li jkun hemm mezz oħra ta' risolviment tat-tilwima b'mod opportun disponibbli għall-partijiet jew inkella jekk ikunu inbdew proċeduri legali dwar it-tilwima minn xi parti fit-tilwima.

(3) Meta l-Awtorità tkun qegħda ttrissolvi xi tilwima li tiġi lilha riferita taht dan l-artikolu, hija tista' toħroġ direttivi lill-persuna li kontriha jkun sar l-ilment fejn titlob lil dik il-persuna tikkonforma ruħha ma' kull miżura li l-Awtorità tista' tispeċifika għar-risolviment tat-tilwima. Dawk id-direttivi jistgħu, fil-kuntest tar-risolviment tat-tilwima u ta' kull haġa oħra rilevanti, jinkludu ordni biex jingħata lura kull hlas li jkun ġie riċevut jew biex jingħata hlas b'kumpens. Dak il-hlas jista' wkoll jinkludi l-ispejjeż kollha jew parti minnhom ta' xi parti talli tkun qabdet avukat u, jew konsulent tekniku dwar sottomissjonijiet li jsiru u li jkunu jirrigwardjaw it-tilwima.

(4) L-Awtorità għandha tagħmel pubblikament disponibbli kull regola ta' proċedura amministrattiva li hija tista' minn żmien għal żmien tistabbilixxi fir-rigward tat-trattament ta' tilwimiet li jiġu riferiti lilha taht dan l-artikolu.

(5) Id-disposizzjonijiet ta' dan l-artikolu għandhom ikunu mingħajr preġudizzju għad-dritt li utent għandu li jista' jirrikorri għal xi korp iehor biex jirrisolvi tilwim bħal dak.

(6) Meta tkun qegħda toħroġ deċiżjoni taht dan l-artikolu, l-Awtorità għandha tiddikjara xi jkunu l-motivi li din tkun bażata fuqhom, u għandha, bla hsara għal dawk il-htigiet ta' kunfidenzjalità kummerċjali li hija tista' tqis li jkunu adatti, tinnotifika lill-partijiet fit-tilwima b'kopja tad-deċiżjoni.

(7) L-Awtorità għandha tippubblika avviż ta' deċiżjoni mogħtija taht dan l-artikolu u għandha tindika minn fejn ikunu jistgħu jinkisbu kopji tad-deċiżjoni jew informazzjoni li jkollha x'taqsam magħha.

(8) Persuna tista', meta t-tilwima tkun tinvolvi persuni li jgawdu awtorizzazzjonijiet f'izjed minn Stat Membru wiehed, titlob lill-Awtorità tikkordina l-isforzi tagħha ma' xi awtorità regolatorja rilevanti oħra fi Stat Membru bil-ghan li jintlahaq risolviment tat-tilwima.”.

Emenda ta' l-
artikolu 45 kif
enumerat mill-
gdid ta' l-Att
prinċipali.

47. Minflok is-subartikolu (2) ta' l-artikolu 45 kif enumerat mill-
gdid ta' l-Att prinċipali, ghandu jidhol dan li ġej:

“Impjieg ta’
membru jew
uffiċjal ta’ l-
Awtorità
wara li
huwa ma
jibqax f’dik
il-kariga.

(2) Ghal perjodu ta' sena wara li membru jew uffiċjal ta' l-Awtorità ma jibqax membru jew uffiċjal ta' l-Awtorità skond il-każ, dak il-membru jew uffiċjal m'għandu jaċċetta ebda kariga, konsulenza jew impjieg meta fl-eżekuzzjoni ta' dik il-kariga, konsulenza jew impjieg, il-membru jew uffiċjal ikun f'pożizzjoni li juża xi informazzjoni kunfidenzjali li huwa jkun kiseb fl-eżerċizzju tal-funzjonijiet tiegħu taht dan l-Att għad-detriment ta' l-Awtorità jew ta' l-impriži regolati minnha, qabel ma jkun kiseb l-awtorizzazzjoni mill-Awtorità:

Iżda l-Awtorità m'għandhiex irragonevolment tirrifjuta li tagħti l-awtorizzazzjoni:

Iżda wkoll l-Awtorità għandha tagħti r-raġunijiet tagħha meta tirrifjuta li tagħti l-awtorizzazzjoni.

(3) Minkejja s-subartikolu (2), persuna li kienet membru jew uffiċjal ta' l-Awtorità m'għandhiex tkun prekluzi milli -

(a) jkollha kariga, jew okkupazzjoni f'xi impjieg fis-servizz ċivili jew f'xi korp statutorju regolatorju, jew

(b) li taġixxi bħala konsulent ta' xi Ministru tal-Gvern, abbażi tal-fatt li l-perjodu msemmi f'dak is-subartikolu ma jkunx skada.

(4) Kull min jikser id-disposizzjonijiet ta' dan l-artikolu jista' jehel multa amministrattiva li m'għandhiex tkun ta' iżjed mill-ammont ta' għaxart elef lira Maltija.

(5) Għall-fini ta' dan l-artikolu l-kliem “membru jew uffiċjal ta' l-Awtorità” tfisser i-*Chairman*, membri tal-Awtorità, id-Direttur Ġenerali, id-Diretturi u dawk l-uffiċjali l-oħra li l-Ministru, wara li jikkonsulta liċ-*Chairman*, iqis li jkunu uffiċjali responsabbli għat-tehid ta' deċiżjonijiet eżekuttivi fl-Awtorità li l-Ministru jista' minn żmien għal żmien isemmi b'avviż fil-Gazzetta.”.

Emenda ta' l-
artikolu 49 kif
enumerat mill-
gdid ta' l-Att
prinċipali.

48. Wara s-subartikolu (3) ta' l-artikolu 49 kif enumerat mill-
gdid ta' l-Att prinċipali għandu jidher dan is-subartikolu għad li ġej:

“(4) Kull dejn dovut lill-Awtorità skond dan l-artikolu jaqa’ bi preskrizzjoni meta jiskadi l-perjodu ta’ hames snin mid-data meta d-dejn kien dovut.”.

49. Id-disposizzjonijiet ta’ l-Att ghat Twaqqif ta’ Awtorità ta’ Malta dwar il-Kommunikazzjoni kif fis-sehh qabel il-bidu fis-sehh ta’ l-Att ta’ l-2007 li Jemenda diversi Ligijiet dwar il-Komunikazzjoni, ghandhom jibqgħu japplikaw għar-rigward ta’ kull ma sar jew naqas milli jsir minn xi persuna qabel dak il-bidu fis-sehh tat-Taqsima IV ta’ dak l-Att.

Disposizzjoni transitorja.

Taqsima VI

Emenda ta’ l-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici.

50. (1) Din it-Taqsima temenda l-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici, u ghandha tinqara u tiftiehem haġa wahda ma’ l-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici, hawn iżjed ’il quddiem f’din it-Taqsima imsejjah “l-Att prinċipali”.

Emenda ta’ l-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici.

Kap. 426.

(2) Din it-Taqsima ghandha tibda ssehh f’dik id-data li l-Ministru responsabbli għall-komunikazzjoni jista’ jappunta b’avviż fil-Gazzetta u jistgħu jiġu hekk appuntati dati differenti għal disposizzjonijiet differenti u għal għanijiet differenti tagħha.

51. L-artikolu 2 ta’ l-Att prinċipali ghandu jiġi emendat kif ġej:

Emenda ta’ l-artikolu 2 ta’ l-Att prinċipali.

(a) minnufih qabel it-tifsira “provditur ta’ servizz ta’ ċertifikazzjoni ta’ firma”, ghandha tiżdied din it-tifsira ġdida li ġejja:

““provditur ta’ servizz” tfisser persuna li tkun tipprovdi s-servizz ta’ sojetà ta’ informazzjoni;”u

(b) fit-tifsira “riċevitur”, minflok il-kelma “riċevitur” ghandhom jidhlu l-kliem “riċevitur tas-servizz”; u

(ċ) fit-tifsira tal-kliem “data ta’ verifika ta’ firma”, il-kelma “privati” ghandha tiġi sostitwita bil-kelma “pubbliċi”.

52. Minflok il-kelma “originatur” kull fejn din tinsab fl-Att minbarra fit-Taqsima IV tiegħu, ghandhom jidhlu l-kliem “provditur ta’ servizz”.

Sostituzzjoni ġenerali fl-Att prinċipali.

Emenda ta' l-
artikolu 4 ta' l-Att
prinċipali.

53. Fis-subartikolu (1) ta' l-artikolu 4 ta' l-Att prinċipali, minflok il-kliem “id-disposizzjonijiet ta' l-artikoli 5 sa 15” ghandhom jidhlu il-kliem “id-disposizzjonijiet ta' dan l-Att, minbarra dawk id-disposizzjonijiet li jirrigwardaw il-firma ta' servizzi ta' ċertifikazzjoni,”.

Emenda ta' l-
artikolu 10 ta' l-Att
prinċipali.

54. Minflok l-artikolu 10 ta' l-Att prinċipali ghandu jidhol dan li ġej:

“Formazzjoni
ta' kuntratt
elettroniku.

10. (1) Kemm-il darba ma jkunx hemm qbil kuntrarju xort'ohra miftiehem mill-partijiet li ma jkunux konsumaturi, meta ir-riċevitur tas-servizz jagħmel l-ordni tiegħu b'mezzi elettronici:

(a) kuntratt elettroniku isir meta wara li jagħmel l-ordni tiegħu, ir-riċevitur tas-servizz ikun irċieva minghand il-provditur tas-servizz rikonoxximent li jkun irċieva l-ordni li tkun saret mir-riċevitur:

Izda il-provditur ta' servizz ghandu jagħti r-rikonoxximent li jkun irċieva l-ordni li tkun saret mir-riċevitur mingħajr ebda dewmien u b'mezzi elettronici;
u

(b) l-ordni li tkun saret mir-riċevitur u r-rikonoxximent li l-ordni tkun ġiet riċevuta jitqiesu li jkunu ġew riċevuti meta l-partijiet li jkunu ġew lilhom indirizzati ikollhom il-fakultà ta' aċċess għalihom.

(2) Kemm-il darba ma jiġix miftiehem xort'ohra mill-partijiet li ma jkunux konsumaturi, il-provditur ta' servizz ghandu jipprova lir-riċevitur tas-servizz b'mezz tekniku effettiv u aċċessibbli kif ikun jista' jidentifika u jsewwi żbalji ta' maniġġ u *input* u transazzjonijiet qabel ma jsir il-kuntratt.

(3) Id-disposizzjonijiet tas-subartikolu (1)(a) u tas-subartikolu (2) ta' dan l-artikolu m'għandhomx japplikaw għal dawk il-kuntatti li jsiru esklużivament permezz tal-posta elettronika jew b'komunikazzjoni individwali ekwivalenti.”.

Emenda tal-Hames
Skeda li tinsab ma'
l-Att prinċipali.

55. Minflok il-paragrafu (k) tal-Hames Skeda li tinsab ma' l-Att prinċipali ghandu jidhol dan li ġej:

“(k) kuntratti regolati bid-dritt dwar il-familja.”.

Disposizzjoni
transitorja.

56. Id-disposizzjonijiet ta' l-Att dwar il-Komunikazzjonijiet u Transazzjonijiet Elettronici, kif fis-sehh qabel il-bidu fis-sehh ta' l-Att

ta' l-2007 li Jemenda diversi Ligijiet dwar il-Komunikazzjoni, ghandhom jibqghu japplikaw ghar-rigward ta' kull ma sar jew naqas milli jsir minn xi persuna qabel il-bidu fis-sehh tat-Taqsima V ta' dak l-Att.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 602 tat-12 ta' Dicembru, 2007.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

EDWARD FENECH ADAMI
President

28th December, 2007

ACT No. XXX of 2007

AN ACT to amend various laws relating to communications and to make provision with respect to matters ancillary thereto or connected therewith.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and commencement.

1. (1) The short title of this Act is the Communications Laws (Amendment) Act, 2007.

(2) This Act shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

Part I

Amendment of the Radiocommunications Act.

Amendment of the Radiocommunications Act
Cap. 49.

2. (1) This Part amends the Radiocommunications Act, and it shall be read and construed as one with the Radiocommunications Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette

appoint and different dates may be so appointed for different provisions and different purposes thereof.

3. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) before the definition “broadcast receiving apparatus” there shall be added the following new definitions:

“ “this Act” includes any regulations made under this Act;

“apparatus” means any apparatus intended for radiocommunications and includes any component part of any such apparatus;” ; and

(b) before the definition “Malta” there shall be added the following new definitions:

“ “general authorization” means the framework established by or under this Act laying down the rights and obligations of persons making use of or possessing any such radiocommunications apparatus as the Minister may from time to time in accordance with the provisions of this Act designate by order in the Gazette as being covered by a general authorization;

“licence” means an individual licence issued in accordance with this Act and includes any general authorization however so described applicable in relation to any radiocommunications apparatus, as may be provided for under article 19 of this Act;”.

4. Article 2A of the principal Act shall be amended as follows: Amendment of article 2A of the principal Act.

(a) subarticle (2) thereof shall be renumbered as subarticle (5) thereof;

(b) immediately after subarticle (1) thereof, there shall be added the following new subarticles:

“(2) The Malta Communications Authority may issue any general authorizations relating to any radiocommunications apparatus as the Minister may from time to time by order in the Gazette determine as being covered by any such general authorizations:

Provided that any fees that may be payable in relation to any such general authorizations shall be established by the Minister:

Provided further that the faculty to issue a general authorization shall include the faculty to amend the rights, conditions and specifications stated in any such general authorizations.

(3) In issuing or amending a general authorization the Malta Communications Authority shall first publish a statement of the proposed general authorization or of any amendments thereto, giving any interested parties the opportunity to comment on the proposed general authorization or amendments thereto within a period which the Malta Communications Authority considers reasonable.

(4) The Malta Communications Authority shall ensure that any general authorizations or amendments thereto are given publicity.”; and

(c) in subarticle (5) thereof as renumbered, after the words

“in terms of subarticle (1)” there shall be added the words “and, or any designation made in terms of subarticle (2)”.

Amendment of article 3 of the principal Act.

5. Article 3 of the principal Act shall be amended as follows:

(a) for subarticle (1) thereof there shall be substituted the following:

“3. (1) Subject to the provisions of subarticle (11) no person shall, without an individual licence given in writing by the Minister, make, buy, sell or have in his possession or under his control any apparatus.

(2) Subject to the provisions of subarticle (11) no person shall sell or give any apparatus to any person who has not obtained an individual licence as referred to in subarticle (1) of this article.

(3) The Minister may require any person who:

(a) has in his possession or under his control any apparatus which is in breach of any of the provisions of this Act and, or of any licence conditions as may be applicable to that apparatus, or

(b) is using or allowing such apparatus to be used for unauthorized frequencies,

to desist from the use of any such apparatus and, or require such a person to deliver the apparatus to the Minister:

Provided that the Minister may seize and retain any such apparatus and, or cause the use of any such apparatus to be restricted in any manner, under such conditions and for such period of time as the Minister may specify where it results to the Minister that such apparatus is being used in breach of this Act or of any licence conditions that may apply in relation to the said apparatus:

Provided further that any expenses incurred by the Minister in the exercise of his functions under this subarticle including in the seizure, retention or storage however so described of the said apparatus, shall be recoverable as a civil debt by the Minister from any person acting in breach of this article.”;

(b) subarticles (2) to (6) thereof shall be renumbered as subarticles (4) to (8) respectively;

(c) for subarticle (5) thereof as renumbered, there shall be substituted the following:

“(5) Any person who contravenes the provisions of this article or who acts in breach of any terms, conditions or limitations, however so described, attached to a licence, shall be guilty of an offence against this Part of this Act.”; and

(d) immediately after subarticle (8) thereof as renumbered, there shall be added the following new subarticles:

“(9) No licence is required for sound only broadcast receivers.

(10) The Minister may, after consultation with the Malta Communications Authority, by order in the Gazette exempt certain categories of apparatus from the requirements of this article.

(11) The provisions of subarticles (1) and (2) of this article shall not apply in relation to any apparatus regulated

by a general authorization issued in accordance with the provisions of this Act.”

Addition of new article 3A to the principal Act.

6. Immediately after article 3 of the principal Act there shall be added the following new article:

“Enforcement. 3A. (1) Any person duly authorised by the Minister to act on his behalf when exercising a power under this Act, shall, if requested by any person thereby affected, produce to that person for inspection a certificate issued by the Minister stating that he is duly authorised to act for and on behalf of the Minister.

(2) In the course of the exercise of any of the powers under this article the Minister may request the assistance of the Police.

(3) The directors and managers, by whatever name designated, or any other persons who are or have been in charge of the operations or activities falling under the supervisory or regulatory functions of the Minister, shall assist and shall collaborate with the Minister in order to enable him to discharge his functions, and shall collate and transmit without any undue delay such information and documentation as the Minister may reasonably request from time to time.

(4) Any person who obstructs, impedes or assaults any person duly authorised by the Minister to act on his behalf in the exercise of any power under this Act, or fails or refuses to comply with a requirement under this Act shall be guilty of an offence against this Act and shall, on conviction, be liable to a fine (*multa*) not exceeding five thousand liri or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.”.

Amendment of article 11 of the principal Act.

7. For the proviso to subarticle (1) of article 11 of the principal Act, there shall be substituted the following:

“Provided that the Minister may, notwithstanding the provisions of this subarticle, issue a provisional licence or a number of provisional licences which in the aggregate cannot cover a period exceeding nine months, on the first registration of a vessel under the Maltese flag, in such circumstances and under such conditions as he may deem appropriate.”.

Amendment of article 19 of the principal Act.

8. Article 19 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof the words “protected or controlled;” shall be substituted with the words “protected or controlled, and in the case of any apparatus seized in accordance with article 3 of this Act, the manner as to the disposal and, or storage of any such apparatus;”;

(b) paragraphs (c) and (d) thereof shall be renumbered as paragraphs (e) and (f) respectively;

(c) immediately before paragraph (d) thereof as renumbered, there shall be inserted the following new paragraphs:

“(c) the imposition of administrative fines upon any person acting in breach of this Act provided that such fines do not exceed ten thousand liri for each infringement and, or two hundred liri for each day during which such infringement persists;

Provided that:

(i) the procedure for the imposition of such administrative fines shall allow for the right to be heard to be respected before any such fines are imposed;

(ii) the procedure for the imposition and contestation of such fines shall be that established in respect of fines imposed by the Malta Communications Authority under Part VII and Part VIII of the Malta Communications Authority Act, and the relevant provisions of the said Act and of any regulations made thereunder in respect of any such procedure shall apply *mutatis mutandis* to administrative fines imposed by the Minister under this Act in such a manner that any reference to the Malta Communications Authority shall be construed as a reference to the Minister; Cap. 418.

(iii) in all cases where the Minister imposes an administrative fine in respect of anything done or omitted to be done by any person and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence;

(d) any fees and, or charges, however so described, that may be payable in relation to any matters regulated by this Act.”;

(d) in paragraph (e) thereof as renumbered, the words “relating to standards in Malta.” shall be substituted with the words “relating to standards in Malta.”; and

(e) after paragraph (e) thereof as renumbered, there shall be added the following:

“Provided that the Minister may, when making any regulations under this article which relate to standards, specifications or to matters of a strictly technical nature, make such regulations in the English language only.”.

Amendment of article 20 of the principal Act.

9. Article 20 of the principal Act shall be amended as follows:

(a) the words “public security or civil protection requirements.” shall be substituted with the words “public security or civil protection requirements.”; and

(b) after the words “public security or civil protection requirements.” there shall be added the following proviso:

“Provided that the Prime Minister may in making an order under this article, impose any such conditions as he may consider appropriate. In imposing such conditions the Prime Minister shall consult the Malta Communications Authority.”.

Transitory provision.

10. The provisions of the Radiocommunications Act as in force prior to the coming into force of the Communication Laws (Amendment) Act, 2007 shall continue to apply in respect of anything done or omitted to be done by any person prior to the said coming into force of Part I of the said Act.

Part II

Amendment of the Postal Services Act.

Amendment of the Postal Services Act. Cap. 254.

11. (1) This Part amends the Postal Services Act, and it shall be read and construed as one with the Postal Services Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

Amendment of article 2 of the principal Act.

12. Article 2 of the principal Act shall be amended as follows:

(a) before the definition “access points” there shall be inserted the following new definition:

“ “this Act” includes any regulations made made under this Act unless the context otherwise requires;”.

(b) before the definition “direct mail” there shall be inserted the following new definition:

“ “decision” includes any determination, direction, measure, requirement or specification, however so described, made by the Authority;”

(c) in the definition “postal article”, the words “periodicals and postal packages” shall be substituted with the words “periodicals and postal parcels, however so described, including packages;”.

13. The words “package” and “packages” wherever they occur in the principal Act shall be substituted by the words “parcel” and “parcels” respectively. General substitution in the principal Act.

14. Immediately after subarticle (2) of article 24 of the principal Act, there shall be added the following new subarticle: Amendment of article 24 of the principal Act.

“(3) The Authority may, when establishing quality of service standards under this article, adopt those measures that it considers to be appropriate in respect of non-compliance with such standards by the universal service provider. Such measures may include requiring the universal service provider to pay such administrative fines as the Authority may establish in accordance with the provisions of this Act.”.

15. In subarticle (5) of article 62 of the principal Act the words “any person who contravenes or fails to comply with any provisions of this Act or of any regulations made or directives given thereunder” shall be substituted by the words “any person who contravenes or fails to comply with any provisions of this Act”. Amendment of article 62 of the principal Act.

16. Immediately after article 76 of the principal Act there shall be added the following new article: Addition of new article 76A to the principal Act.

“Issue of directives and administrative fines.
Cap. 418.

76A. (1) The Authority may in accordance with the provisions of article 4(6) and (7) of the Malta Communications Authority Act, issue any such directives as the Authority considers to be necessary for the purposes of and in accordance with the provisions of this Act.

(2) Any postal operator who fails to comply with a directive or a decision, however so described, issued by the

Authority, shall be liable to the imposition by the Authority of an administrative fine not exceeding the sum of ten thousand liri and, or two hundred liri for each day during which failure to observe the requirements of any such directive or decision persists.”

Amendment of article 81 of the principal Act.

17. In the proviso to article 81(2)(k) of the principal Act, the words “the sum of five thousand liri for each offence” shall be substituted with the words “the sum of ten thousand liri for each offence”.

Transitory provision.

18. The provisions of the Postal Services Act as in force prior to the coming into force of the Communication Laws (Amendment) Act, 2007 shall continue to apply in respect of anything done or omitted to be done by any person prior to the said coming into force of Part II of the said Act.

Part III

Amendment of the Broadcasting Act.

Cap. 350.

19. (1) This Part amends the Broadcasting Act, and it shall be read and construed as one with the Broadcasting Act hereinafter in this Part referred to as “the principal Act”.

(2) This Act shall come into force on such date as the Prime Minister may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of this Act.

Amendment of article 16B of the principal Act.

20. Article 16B of the principal Act shall be amended as follows:

(a) the marginal note “Digital radio.” thereto shall be substituted with the words “Regulation of broadcasting on networks.”;

(b) the words “digital radio services” in subarticle (1) shall be substituted with the word “networks”;

(c) subarticle (2) shall be amended as follows:

(i) the words “digital radio broadcasting licence”, wherever they occur shall be substituted with the words “broadcasting licence to be used by or on a network”, and in the Maltese text of the last paragraph thereof for the words “servizzi ta’ radju digitali” there shall be substituted the words “servizzi ta’ xandir fuq *network*”;

(ii) the words “digital radio broadcasting licensee” in paragraph (d) thereof shall be substituted with the words “broadcasting licensee who broadcasts on a network”;

(iii) the words “digital radio broadcasting contractor or licensee” in paragraphs (h) and (j) thereof shall be substituted with the words “broadcasting licensee who broadcasts on a network”; and

(d) the following new subarticle shall be added immediately after subarticle (2) thereof:

“(3) For the purpose of this article, “network” means any electronic communications network and any electronic communications service as defined in article 2 of the Electronic Communications (Regulation) Act.

Cap. 399.

Part IV

Amendment of the Electronic Communications (Regulation) Act.

21. (1) This Part amends the Electronic Communications (Regulation) Act, and it shall be read and construed as one with the Electronic Communications (Regulation) Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of the Electronic Communications (Regulation) Act.
Cap. 399.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

22. Subarticle (2) of article 6 of the principal Act shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article.

Amendment of article 6 of the principal Act.

23. Subarticle (2) of article 7 of the principal Act shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article.

Amendment of article 7 of the principal Act.

24. Subarticle (2) of article 8 of the principal Act shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article.

Amendment of article 8 of the principal Act.

25. Subarticle (8) of article 11 of the principal Act shall be deleted.

Amendment of article 11 of the principal Act.

26. Subarticle (7) of article 14 of the principal Act shall be deleted.

Amendment of article 14 of the principal Act.

27. Subarticle (2) of article 15 of the principal Act shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article.

Amendment of article 15 of the principal Act.

28. Subarticle (2) of article 16 of the principal Act shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article.

Amendment of article 16 of the principal Act.

Amendment of article 19 of the principal Act.

29. Subarticle (5) of article 19 of the principal Act shall be deleted, and subarticle (6) thereof shall be renumbered as subarticle (5).

Amendment of article 21 of the principal Act.

30. Subarticle (2) of article 21 of the principal Act shall be deleted, and subarticle (1) thereof shall be renumbered as the whole article.

Deletion of articles 24 to 26 of the principal Act.

31. Articles 24 to 26 of the principal Act shall be deleted.

Amendment of article 34 of the principal Act.

32. In paragraph (k) of subarticle (1) of article 34 of the principal Act, the words “prescribe measures to be taken by any person” shall be substituted with the words “provide for data retention obligations, and for rules regarding the access by the Authority and by the Police to data retained by undertakings, and prescribe measures to be taken by any person”.

Addition of new article 35A to the principal Act.

33. Immediately after article 35 of the principal Act there shall be added the following new article:

“Use of electronic communications apparatus to make threats.

35A. Any person who by means of an electronic communications network or apparatus:

(a) threatens the commission of any crime; or

(b) with intent to extort money or any other thing, or to make any gain, or with intent to induce another person to do or omit from doing any thing, threatens to accuse or to make a complaint against, or to defame, that or another person; or

(c) makes any other improper use thereof, shall be guilty of an offence under this Act and shall, on conviction, be liable to a fine (*multa*) not exceeding ten thousand liri and, in the case of a continuing offence, to a further fine (*multa*) not exceeding two hundred liri for each day during which the offence continues.”.

Amendment of article 37 of the principal Act.

34. In subarticle (1) of article 37 of the principal Act, the words “under article 27 or under article 35(1)(d)” shall be substituted with the words “under article 27, under article 35(1)(d) or under article 35A”.

Amendment of article 43 of the principal Act.

35. In subarticle (2) of article 43 of the principal Act, the words “exempt from the provisions of this Act” shall be substituted with the words “exempt from any of the provisions of this Act and from the provisions of any regulations made thereunder”.

36. The provisions of the Electronic Communications (Regulation) Act as in force prior to the coming into force of the Communication Laws (Amendment) Act, 2007 shall continue to apply in respect of anything done or omitted to be done by any person prior to the said coming into force of Part III of the said Act.

Transitory provision.

Part V

Amendment of the Malta Communications Authority Act

37. (1) This Part amends the Malta Communications Authority Act, and it shall be read and construed as one with the Malta Communications Authority Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of the Malta Communications Authority Act. Cap. 418

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

38. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) immediately before the definition “Authority” there shall be added the following new definition:

““authorization” means any authorization including any general authorization, licence, right to use or permit, however so described, that a person may hold or be granted under any law which the Authority is entitled to enforce or administer;”;

(b) immediately after the definition “communications” there shall be added the following new definition:

““Community” means the European Community;” and

(c) immediately after the definition “undertaking” there shall be added the following new definition:

““user” includes any person who uses or requests any communications service.”.

39. In subarticle (9) of article 4 of the principal Act, the words “for the application of the provisions of this Act” shall be substituted with the words “for the application of the provisions of this Act, and of any other law relating to competition issues and, or consumer affairs,”.

Amendment of article 4 of the principal Act.

40. Immediately after sub-article (9) of article 5 of the principal Act there shall be added the following new subarticle:

Amendment of article 5 of the principal Act.

“(10) Nothing in this Act shall be construed as giving rise to or as ever having given rise to the nullity or invalidity of any decision or directive made by the Authority at any time during which any one or more of the Directorates was not established.”.

Amendment of article 29 of the principal Act.

41. Subarticle (1) of article 29 of the principal Act shall be amended as follows:

(a) paragraphs (c), (d) and (e) thereof shall be renumbered as paragraphs (d), (e) and (f);

(b) before paragraph (d) thereof as renumbered there shall be added the following new paragraph:

“(c) remove and retain such books, documents or records for such period as may be reasonable for further examination;”;

(c) in paragraph (f) as renumbered the words “make such inspections,” shall be substituted with the words “make such inspections including site inspections to enable the Authority to carry out its functions at law and in doing so the Authority may also undertake”.

Substitution of articles 31 to 33 of the principal Act.

42. Articles 31 to 33 of the principal Act shall be substituted with the following:

“Other sanctions that the Authority may impose.

31. (1) Without prejudice to any other provisions under this Act or any other law which the Authority is entitled to enforce, the Authority may take the following measures in respect of any person who infringes any provision of this Act or of any other law which the Authority is entitled to enforce, or who fails to comply with any directive or decision given by the Authority:

(a) the imposition of an administrative fine in accordance with the provisions of this article and articles 32 and 33; and

(b) in cases where the Authority considers that the person has seriously and repeatedly infringed the provisions of this Act or of any other law which the Authority is entitled to enforce, or the decisions or directives of the Authority, the Authority may withdraw or suspend the right to provide any services or networks regulated by or under this Act or any other law which the Authority is entitled to enforce.

(2) In all cases where the Authority imposes an administrative fine in respect of anything done or is omitted to be done by any person and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

Procedure
when taking
a measure
under article
31.

32. (1) The Authority shall before proceeding to take any of the measures under article 31 write to the person concerned, warning him of the measure that may be taken and the specific reason why it may be taken, requiring him to rectify his acts or omissions and, or to make his submissions thereto:

(a) within such period not being less than thirty days in relation to any infringement of the Electronic Communications (Regulation) Act or of any regulations made thereunder; Cap. 399.

(b) within such period not being less than fifteen days in relation to any other infringement in relation to which paragraph (a) does not apply, which period without prejudice to the provisions of subarticle (4) of this article, may be abridged if the continuance of the infringement impacts negatively the effective exercise by the Authority of its regulatory functions:

Provided that where the measure is an administrative fine the person concerned shall also be informed of the amount of the fine:

Provided further that when issuing a warning under this subarticle the Authority may impose such conditions as it may consider reasonable in the circumstances.

(2) If the person concerned remedies the infringement within the period established by the Authority in accordance with subarticle (1), and agrees in writing to abide with any conditions that the Authority may impose, the Authority shall desist from proceeding any further.

(3) If after the lapse of the period mentioned in paragraphs (a) and (b) of subarticle (1) the Authority considers that the person concerned has not given any valid reasons to demonstrate why no measure should be taken against him, the Authority shall give notice in writing to the person concerned specifying the nature of the infringement, stating the measure being taken, and if the measure is an

administrative fine, stating the amount of the fine being imposed.

(4) Notwithstanding the provisions of subarticle (1), where the Authority has *prima facie* evidence that the infringement -

(a) represents an immediate and serious threat to public safety, public security or public health; or

(b) creates or may create serious economic or operational problems for other providers of communications services or networks, or for consumers,

the Authority may take urgent interim measures to remedy the situation in advance of reaching a final decision including the imposition of administrative fines, and, or may shorten the periods mentioned in paragraphs (a) and (b) of subarticle (1):

Provided that the person against whom such measures are contemplated, shall be given a reasonable opportunity to state his view and propose any remedies.

(5) The notice as referred to in subarticle (3) shall, upon the expiry of the time limit for appeal therefrom, upon the service of a copy thereof by means of a judicial act on the person indicated in the notice, constitute an executive title for all effects and the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure:

Provided that if the person against whom the notice has been issued, files an appeal before the Appeals Board within the thirty day period referred to under article 38, and concurrently with or before the filing of his appeal requests the Appeals Board to suspend the effects of the notice, then the Authority shall desist from issuing a judicial act as referred to in this subarticle until such time as the the request for suspension has been determined, withdrawn or otherwise dealt with:

Provided further that the Appeals Board shall determine any requests for suspension referred to in this subarticle expeditiously. Before determining any such request the Appeals Board shall give the Authority a reasonable opportunity to reply and make its submissions.

(6) Interest at the rate of eight per cent per annum shall run as from the date set by the Authority for the payment of any administrative fine imposed by it in terms of this Act. In cases where the Appeals Board or the Court of Appeal, as the case may be, after having upheld an application to suspend the fine pending proceedings, finally decides that the fine is due, such fine shall be due together with any interests accrued thereon as from the date originally set by the Authority for payment including the period during which the payment of the said fine was suspended.

(7) The Authority shall give its reasons for any decision taken under this article.

(8) Notwithstanding the provisions of any law, no precautionary warrant or order shall be issued by any court restraining the Authority from the exercise of any of the powers conferred upon it under this article.

Quantum of
an
administrative
fine.

33. (1) An administrative fine imposed shall not, unless provided otherwise by or under this Act, exceed one hundred and fifty thousand liri for each infringement or failure to comply and, or five thousand liri for each day of infringement or non-compliance as the case may be:

Provided that if the act or omission which constitutes an infringement is committed by an undertaking and the Authority considers that such act or omission has especially significant effects on the market to the detriment of competitors and, or consumers, the stated amount that may be imposed as an administrative fine may be increased to an amount that is not more than five per cent of the turnover of the undertaking in the calendar year immediately preceding the year when the infringement was committed.

(2) In determining the amount of an administrative fine, regard shall be had in particular to the nature and extent of the infringement, its duration and its impact on the market and on consumers.

(3) The Minister may in regulations made under this Act establish the administrative fines that may be imposed by the Authority for breaches of the said regulations:

Provided that the amount of the fines that may be so prescribed shall not exceed the maximum amounts referred to under subarticle (1).”.

Addition of new article 34A to the principal Act.

43. Immediately after article 34 of the principal Act there shall be added the following new article:

“Limitation on the provision of services, networks to protect public security etc.

34A. (1) For the purposes of this article:

(a) ““authorization” means any authorization, however described, that a person may hold or be granted under the Act;

(b) “shareholder” means:

(i) in the case of a company that is not listed on the Malta Stock Exchange or on a Stock Exchange of a Member State of the European Union, a person who holds any amount of shares in a company;

(ii) in the case of a company listed on the Malta Stock Exchange or on the Stock Exchange of a Member State of the European Union, a person holding more than two percent of shares in a company.

(2) When the Authority is satisfied that:

(a) any person holding any authorization; or

(b) any person who is a secretary, director or other principal officer of any company, partnership or other body holding any authorization or who otherwise exercises control or significant influence over the said company, partnership or other body; or

(c) any person who is a shareholder of any company, partnership or other body holding any authorization, is not a fit and proper person or are not fit and proper persons to hold any authorization or to act in any capacity mentioned in paragraphs (b) or (c) above and that the holding by such person or persons of an authorization or of any said capacity may reasonably pose a threat to public trust, public security or public order, the Authority may prohibit such person or persons or any company, partnership or other body in which the said person or persons hold any said capacity from holding an authorization.

(3) The Authority may, for the purpose of ascertaining whether any person referred to in subarticle (2) of this article is a fit and proper person to hold an authorization or to act in

any capacity mentioned in paragraphs (b) or (c) of subarticle (2) of this article, require, within such time as it may consider reasonable in the circumstances, such information and, or consent to obtain any information as the Authority may deem appropriate from any such person or from any person who intends to provide a communications service and, or network in accordance with the Act.

(4) Without prejudice to the other provisions of this article:

(a) any person convicted, whether in Malta or outside Malta, of a crime against public trust shall not be deemed to be a fit and proper person to hold an authorization or to act in any capacity mentioned in paragraphs (b) or (c) of subarticle (2) of this article;

(b) any authorization enjoyed by any person convicted of a crime against public trust, or enjoyed by a company, partnership or other body which has a shareholder or a secretary, director or other principal officer who has been convicted, whether in Malta or outside Malta, of a crime against public trust, or over which a person who has been convicted, whether in Malta or outside Malta, of a crime against public trust otherwise exercises control or significant influence, shall be voidable upon a decision of the Authority taken after having considered all the relevant facts.”.

44. Article 37 of the principal Act shall be amended as follows: Amendment of article 37 of the principal Act.

(a) in the marginal note thereto there shall be added the words “Cap. 426”; and

(b) in subarticle (1) thereof the words “the Broadcasting Authority Act or the Postal Services Act:” shall be substituted with the words “the Broadcasting Act, the Postal Services Act or the Electronic Commerce Act:”.

45. Article 38 of the principal Act shall be amended as follows: Amendment of article 38 of the principal Act.

(a) subarticle (2) thereof shall be substituted with the following:

“(2) A person who is notified with a notice in writing given under subarticle (3) of article 32, may within thirty days from the date of such notification lodge an appeal before the

Appeals Board objecting to the administrative fine so fixed.”;
and

(b) in subarticle (3) thereof the words “unless such fine cannot at law be imposed in the circumstances of the case, or cannot at law be fixed in the amount established by the Authority” shall be substituted with the words “unless it results to it that such fine could not at law be imposed in the circumstances of the case, or could not at law be fixed in the amount established by the Authority”.

Renumbering of Part IX and addition of new Part IX to the principal Act.

46. (1) Part IX of the principal Act shall be renumbered as Part X and articles 43 to 47 shall be renumbered as articles 45 to 49 respectively.

(2) Immediately after Part VIII of the principal Act, there shall be added the following new Part IX:-

“PART IX
DISPUTE RESOLUTION

Disputes between persons holding an authorization.

43. (1) Unless otherwise provided in any other law, in the event of a dispute arising between persons holding an authorization and who are established in Malta, in connection with obligations that the persons have towards each other under any law which the Authority is entitled to enforce, the Authority shall, subject to subarticle (2) of this article, at the request of any party to the dispute, initiate an investigation of the dispute and, as soon as possible and in any case, other than in circumstances which the Authority considers exceptional, within four months from the date on which the dispute was notified to it by a party to the dispute, make a determination to resolve the dispute and ensure compliance with the applicable law:

Provided that nothing in this article shall be construed as restricting or prohibiting the Authority from undertaking of its own initiative any investigation of any disputes it may become aware of and which the Authority believes ought to be investigated.

(2) The Authority may decide not to initiate an investigation referred to in subarticle (1) where it is satisfied that other means of resolving the dispute in a timely manner are available to the parties or if legal proceedings in relation to the dispute have been initiated by any party to the dispute.

(3) Where the Authority decides not to initiate an investigation under subarticle (2) of this article, it shall

inform the parties of such a decision as soon as possible thereafter.

(4) If four months from the date of a decision referred to in subarticle (3) the dispute is not resolved and the party seeking redress has not initiated legal proceedings before the ordinary courts or any other competent adjudicative forum, however so described, the Authority shall, at the request of any of the parties to the dispute, initiate an investigation and give a decision in accordance with the provisions of this article.

(5) In giving a decision under this article the Authority shall in relation to disputes between persons providing electronic communications services and, or networks, have regard to the objectives under article 4 of the Electronic Communications (Regulation) Act.

Cap. 399.

(6) Without prejudice to the provisions of article 31 of this Act, a person to whom a decision under this article applies shall, saving the provisions of article 42 of this Act, forthwith comply with that decision. If such person fails to do so, he shall be deemed to have committed an infringement of this article. The period of non-compliance shall be deemed to have commenced from the date of notification of the decision of the Authority or from any such other date as may be communicated in the decision which date shall in any case be on or subsequent to the date of notification of the decision:

Provided that if it results to the Authority that a breach of this Act or any other law which the Authority is entitled to enforce has been committed by a party to a dispute, the Authority may notwithstanding the provisions of this article apply the provisions of articles 31 to 33 of this Act.

(7) In issuing a decision under this article the Authority shall state the reasons on which the decision is based, and shall, subject to such requirements of commercial confidentiality as it may deem appropriate, notify the parties to the dispute with a copy of the decision.

(8) The Authority shall publish notice of a decision given under this article and shall indicate where copies of, or information regarding the decision may be obtained.

(9) The procedure referred to in this article shall not preclude any party to the dispute from bringing an action before the courts or any other competent adjudicative forum.

(10) The Minister may by regulation vary the periods stated in subarticles (1) and (4) of this article.

Disputes
involving
consumers.

44. (1) Where a dispute, however so described, arises between a person holding an authorization and a user further to a complaint by a user alleging an infringement of any law or decision which the Authority is entitled to enforce, any party to such a dispute may refer the dispute to the Authority:

Provided that in making a complaint the user must *prima facie* show that he has been affected by the act or omission of the person holding the authorization in relation to which he has made the complaint.

(2) Upon receipt of any reference as aforesaid, or upon otherwise becoming aware of any such dispute that the Authority believes should be investigated, the Authority shall notify all the parties to the dispute that the matter is being investigated. In doing so the Authority shall regulate its own procedure, which procedure shall, as far as is reasonably possible, be transparent, simple, inexpensive and conducive to a prompt and fair settlement of the dispute, and it shall afford all parties to the dispute reasonable opportunity to make their submissions and to produce any relevant information:

Provided that the Authority may decide not to initiate an investigation in accordance with this article where it is satisfied that other means of resolving the dispute in a timely manner are available to the parties or if legal proceedings in relation to the dispute have been initiated by any party to the dispute.

(3) The Authority in resolving any disputes referred to it under this article, may issue directives to the person against whom the complaint has been lodged requiring that person to comply with any measure that the Authority may specify for the resolution of the dispute. Such directives may, having regard to the determination of the dispute and to all other relevant matters, include an order to effect the reimbursement of payments received or to make compensation payments. Such payments may also include the whole or part of the costs of any party relating to the engagement of a lawyer and, or of a technical adviser in relation to any submissions relating to the dispute.

(4) The Authority shall make publicly available any rules of administrative procedure which it may from time

to time establish in relation to the handling of any disputes referred to it under this article.

(5) The provisions of this article shall be without prejudice to the right of a user to have recourse to any other body in resolving any such disputes.

(6) In issuing a decision under this article the Authority shall state the reasons on which it is based, and shall, subject to such requirements of commercial confidentiality as it may deem appropriate, notify the parties to the dispute with a copy of the decision.

(7) The Authority shall publish notice of a decision given under this article and shall indicate where copies of, or information regarding the decision may be obtained.

(8) A person may, where the dispute involves persons enjoying authorizations in more than one Member State, request the Authority to co-ordinate its efforts with any relevant regulatory authority in another Member State with a view to bringing about a resolution of the dispute.”.

47. For subarticle (2) of article 45 as renumbered of the principal Act, there shall be substituted the following:

Amendment of article 45 as renumbered of the principal Act.

“Employment etc. of a member or officer of the Authority after he ceases to be so .

(2) For a period of one year after a member or officer of the Authority has ceased to be a member or officer of the Authority as the case may be, such member or officer shall not, without the prior approval of the Authority, accept any office, consultancy or employment where, in the course of such office, consultancy or employment, the member or officer would be in a position to make use of confidential information acquired by him in the exercise of his functions under this Act to the detriment of the Authority or undertakings regulated by it:

Provided that such prior approval shall not be unreasonably withheld by the Authority:

Provided further that the Authority shall, upon withholding such approval, give reasons therefore.

(3) Notwithstanding subarticle (2), a person who was a member or officer of the Authority shall not be precluded from -

(a) holding office, or engagement in, any employment in the civil service or any statutory regulatory body, or

(b) acting as a consultant to any Minister of the Government, on the basis that the period referred to in that subarticle has not expired.

(4) Any person who acts in breach of this article shall be liable to pay an administrative fine which fine shall not exceed the sum of ten thousand Maltese liri.

(5) For the purpose of this article the words “a member or officer of the Authority” shall mean the Chairman, members of the Authority, the Director General, the Directors and such other officers who the Minister, after consultation with the Chairman, considers as being officers responsible for the taking of executive decisions of the Authority as the Minister may from time to time designate by notice in the Gazette.”.

Amendment of article 49 as renumbered of the principal Act.

48. After subarticle (3) of article 49 as renumbered of the principal Act there shall be added the following new subarticle:

“(4) Any debts due to the Authority in accordance with this article shall be prescribed by the lapse of the period of five years from the date on which the debt was due.”.

Transitory provision.

49. The provisions of the Malta Communications Authority Act as in force prior to the coming into force of the Communication Laws (Amendment) Act, 2007 shall continue to apply in respect of anything done or omitted to be done by any person prior to the said coming into force of Part IV of the said Act.

Part VI

Amendment of the Electronic Commerce Act

Amendment of the Electronic Commerce Act. Cap. 426.

50. (1) This Part amends the Electronic Commerce Act, and it shall be read and construed as one with the Electronic Commerce Act, hereinafter in this Part referred to as “the principal Act”.

(2) This Part shall come into force on such date as the Minister responsible for communications may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

51. Article 2 of the principal Act shall be amended as follows: Amendment of article 2 of the principal Act.

(a) in the definition “recipient”, the word “recipient” shall be substituted with the words “recipient of the service”;

(b) immediately before the definition “signature verification device”, there shall be inserted the following new definition:

“ “service provider” means any person providing an information society service;”; and

(c) in the definition “signature verification data”, for the word “private” there shall be substituted the word “public”.

52. The word “originator” wherever it occurs in the Act other than in Part IV thereof, shall be substituted with the words “service provider”. General substitution in the principal Act.

53. In subarticle (1) of article 4 of the principal Act, the words “the provisions of articles 5 to 15” shall be substituted with the words “the provisions of this Act, other than any provisions relating to signature certification services.”. Amendment of article 4 of the principal Act.

54. Article 10 of the principal Act shall be substituted with the following: Amendment of article 10 of the principal Act.

“Formation of electronic contract.

10. (1) Unless otherwise agreed by parties who are not consumers, where the recipient of the service places his order through technological means:

(a) an electronic contract is concluded when after placing his order, the recipient of the service has received from the service provider an acknowledgement of receipt of the order made by the recipient:

Provided that the service provider must acknowledge receipt of the order made by the recipient without undue delay and by electronic means; and

(b) the order made by the recipient and the acknowledgement of receipt are deemed to have been received when the parties to whom they are addressed are able to access them.

(2) Unless otherwise agreed by parties who are not consumers, the service provider shall provide the recipient of the service with effective and accessible technical means

to identify and correct handling and input errors and accidental transactions prior to the conclusion of the contract.

(3) The provisions of subarticle (1)(a) and of subarticle (2) of this article shall not apply to contracts concluded exclusively by electronic mail or by equivalent individual communications.”.

Amendment of the Fifth Schedule to the principal Act.

55. For paragraph (k) of the Fifth Schedule to the principal Act there shall be substituted the following:

“(k) any contracts governed by family law.”.

Transitory provision.

56. The provisions of the Electronic Commerce Act as in force prior to the coming into force of the Communications Laws (Amendment) Act, 2007 shall continue to apply in respect of anything done or omitted to be done by any person prior to the coming into force of Part V of the said Act.

Passed by the House of Representatives at Sitting No. 602 of 12th December, 2007.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives